

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W.A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the TRUSTEE )  
FOR NATURAL RESOURCES FOR THE )  
STATE OF OKLAHOMA, )

Plaintiff, )

vs. )

TYSON FOODS, INC., et al., )

Defendants. )

4:05-CV-00329-TCK-SAJ

- - - - -

VIDEO DEPOSITION OF JOHN LITTLEFIELD,  
produced as a witness on behalf of the Defendants in  
the above styled and numbered cause, taken on the  
2nd day of August, 2007, in the City of Tulsa,  
County of Tulsa, State of Oklahoma, before me, Karla  
E. Barrow, a Certified Shorthand Reporter, duly  
certified under and by virtue of the laws of the  
State of Oklahoma.

JOHN LITTLEFIELD, 8-2-07

2

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1 (Whereupon, the deposition began at 9:23  
2 a.m.)

3 VIDEOGRAPHER: We are now on the record for  
4 the deposition of Mr. John Littlefield. Today is  
5 August 2nd, 2007. The time is 9:27 a.m. Would  
6 counsel please identify themselves?

7 MR. ELROD: John Elrod for defendant  
8 Simmons Foods, Incorporated.

9 MR. McDANIEL: Scott McDaniel for Peterson  
10 Farms, Inc.

11 MR. SANDERS: I'm Bob Sanders for the  
12 Cal-Maine defendants

13 MR. THOMPSON: Paul Thompson, Jr. for the  
14 George's defendants.

15 MS. THOMPSON: Erin Thompson for the Tyson  
16 defendants.

17 MS. HILL: Theresa Hill for the Cargill  
18 defendants.

19 MS. WEAVER: Sharon Weaver for the State of  
20 Oklahoma.

21 MS. STEWART: Janet Stewart, Oklahoma  
22 Department of Agriculture.

23 MR. NANCE: Bob Nance for the State of  
24 Oklahoma.

25 MR. ELROD: Telephone?

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1 MR. BROWN: David Brown for Willow Brook.

2 MS. BRONSON: Vicki Bronson for Simmons.

3 VIDEOGRAPHER: Thank you. You can swear  
4 the witness.

5 JOHN LITTLEFIELD,  
6 being first duly sworn to tell the truth, the whole  
7 truth and nothing but the truth, testified as  
8 follows:

9 DIRECT EXAMINATION

10 BY MR. ELROD:

11 Q Mr. Littlefield, my name is John Elrod. I  
12 represent Simmons Foods in this matter, and I'm  
13 going to have a few questions for you. We've not  
14 met before today, have we, sir?

15 A No, sir.

16 Q And would you tell me what your name and  
17 address is for the record?

18 A John L. Littlefield, 38327 South 4370 Road,  
19 Adair, Oklahoma 74330.

20 Q How long have you lived in Adair?

21 A Approximately two years at that place.

22 Q All right, sir. Are you a high school  
23 graduate?

24 A Yes.

25 Q What town and what year?

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1 A Pryor, Oklahoma, Mayes County, 1959.

2 Q Do you have post-high school education?

3 A Yes, I do.

4 Q Tell me about that, please.

5 A I went to OCU, basketball scholarship, and  
6 then back north to Nebraska University, and I never  
7 did graduate, but I went to the service after that.

8 Q All right, sir. What years were you in the  
9 service?

10 A '62 to '65, 1962 to 1965.

11 Q And what was your MOS? Not the number --

12 A 716.2.

13 Q I knew you were going to do that. What was  
14 your specialty?

15 A I was a records keeper and pay specialist.

16 Q And who was your coach at OCU?

17 A Abe Lemmons.

18 Q That's what I thought. Now, take me  
19 through -- give me the nickel tour of your job  
20 history after the service, would you, please?

21 A I'm -- I don't hear very well, I apologize.

22 Q And I'm talking softly, that's my fault.  
23 Would you give me the nickel tour of your job  
24 history after the military?

25 A I started to work in Tulsa for a finance

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1 company as assistant manager. I worked there for a  
2 year or two, then I went to Dallas, went to work for  
3 Zales Jewelers as the credit manager. That's where  
4 I met my wife, by the way. I was with them for  
5 about two or three years, then I went to work for  
6 Preston State Bank in the credit card divis --  
7 division. After a few years there, I transferred to  
8 the Mercantile National Bank, become an officer of  
9 that bank, and was the card manager for Mercantile  
10 National Bank. I left Mercantile National Bank and  
11 married my wife, went to Oklahoma and opened a  
12 furniture store, Littlefield's Furniture in  
13 Claremore, Oklahoma.

14 Q What year was that?

15 A 1970, I believe, sir.

16 Q Okay. Keep going.

17 A Then I opened some more stores, and I ended up  
18 buying a store in Pryor, and Pryor, being my home, I  
19 ran it until '92, I guess, and I sold it. I had a  
20 motel and campground in North Carolina for about  
21 five years. I sold it, retired, quit. After that,  
22 I was a rural mail carrier for -- I needed a few  
23 days' work, a couple of years, then I went to work  
24 for the State as the director of a museum in Salina,  
25 Oklahoma. I was only there about a year when this

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1 job came up in 1998, and I started with the Oklahoma  
2 Department of Agriculture on a contract.

3 Q Explain to me what that arrangement was. I've  
4 seen that somewhere in a letter that you were  
5 operating under a contract, you were not a W-2  
6 employee?

7 A No, I am not.

8 Q Okay. Why is that, why aren't you just a W-2  
9 employee?

10 A I guess they don't want to give me benefits.  
11 I don't know.

12 Q All right. So there actually exists a written  
13 contract between you and ODAFF that sets out the  
14 terms of your contractual arrangement; is that  
15 right?

16 A That's right.

17 Q Okay. And it's been that way since the very  
18 beginning --

19 A Yes, it has.

20 Q -- in 1998? For what counties are you  
21 responsible?

22 A Counties?

23 Q Yes, sir.

24 A Mayes County, Rogers County, Craig County,  
25 Ottawa County and Delaware County, most of Delaware.

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1 There is a strip on the north side of -- or the  
2 south side of 412 that I don't have in Delaware  
3 County.

4 Q So you've got Delaware County north of 412?

5 A That's right.

6 Q And --

7 A I have the only grower in Creek County, and I  
8 have another grower in Cherokee County that I go to.

9 Q Why do you have one in Cherokee?

10 A Cherokee?

11 Q Yeah.

12 A I don't really know.

13 Q I mean, is that south of 412 or north of 412?

14 A That's north of 412 -- or south, I'm sorry,  
15 south of 412. It's a --

16 Q Who is that grower?

17 A Gary Fisher.

18 Q Is there somebody else who has the remainder  
19 of Cherokee County?

20 A Yes, there is.

21 Q And is that Randy Thompson?

22 A No.

23 Q Who is it?

24 A It's David Berry.

25 Q Okay. What county is David Berry responsible

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1 for?

2 A Well, I'm not sure. Adair County, the  
3 northern -- or southern part, as we talked about, of  
4 Delaware County that I don't have.

5 Q Uh-huh.

6 A Cherokee County, Sequoyah County. I believe  
7 Muskogee, but I'm not sure on those. I am sure  
8 on -- on Sequoyah and Adair County and Cherokee.

9 Q So in terms of coverage for the entire  
10 Illinois River watershed on the Oklahoma side, that  
11 would be you and David Berry?

12 A That's correct.

13 Q All right. And no one else?

14 A Not to my knowledge, no, sir.

15 Q And do you know whether David Berry is also  
16 under contract with --

17 A Yes, he is.

18 Q -- ODAFF? And did he start at the same time  
19 that you did?

20 A No, he did not.

21 Q When did he start?

22 A I don't know what year.

23 Q Can you get me within spitting distance?

24 A 2001, approximately.

25 Q All right.

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1 A 2002, maybe.

2 Q And who was his predecessor?

3 A Brett Schuler.

4 Q Was Brett there from the beginning?

5 A No -- yes -- let's see, no -- yes, he was.

6 Q Okay.

7 A Yes, he was.

8 Q Is that your final answer?

9 A Sorry about that. That's my final answer.

10 Q And do you know where Brett Schuler is now?

11 A No, I don't, not for sure.

12 Q Well, do -- do you have a clue, I mean --

13 A I think he's still working for the State.

14 Q Okay. What are your job duties?

15 A Well, I'm a poultry inspector for those  
16 counties. I don't know if I said Mayes County or  
17 not in that while ago.

18 Q I think you did, yes, sir.

19 A Did I? But I go to the farms and do an  
20 inspection required by once a year, then I do  
21 technical assistance all year long. I investigate  
22 complaints when I have complaints. I have helped in  
23 educational classes that's given. I guess that's  
24 it.

25 Q How many growers are in the counties you work?

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1 A I -- I think I have about 210, 205, 210.

2 Q Of that number, how many have in place  
3 phosphorus based animal waste plans?

4 A To the best of my recollection, they all do.  
5 They either have a plan or they have a letter from  
6 the NRCS office stating that they will work them up  
7 a plan. So they do have something current in their  
8 file.

9 Q Okay. Can you give me a breakout, an  
10 approximate breakout of the ones that actually do  
11 have a plan in place as opposed to those that have a  
12 letter from NRCS?

13 A Well, it won't be accurate, probably, but I  
14 would say 90 percent of them have plans.

15 Q Up-to-date plans?

16 A Well, it has to be renewed every six years.

17 Q Yes, sir.

18 A And yes, if it's not, they have to have a  
19 letter. Some of those that have letters will be  
20 people that had a plan that has not gone back and  
21 had it updated.

22 Q Okay. So let me -- let me see if I can recap  
23 what I think you just said.

24 A Okay.

25 Q I think you told me that 90 percent of the

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1 205, 210 growers for whom you have responsibility  
2 have up-to-date phosphorus based plans in place?

3 A I think that's right. You know, that's an  
4 approximate figure.

5 Q All right. And the other 10 percent either  
6 are operating under an old plan, or at least have a  
7 NRCS letter saying we're going to get to you when we  
8 can?

9 A That's right.

10 Q Is NRCS still writing plans?

11 A In my area?.

12 Q Yes.

13 A There's some counties do and some do not.

14 Q Which ones do?

15 A Delaware County does. I have had -- Rogers  
16 County has written some plans. Craig County has  
17 written some plans. Ottawa County has in the past.  
18 When they had another director, but they -- they  
19 haven't written any lately.

20 Q NRCS is organized on a county by county basis?

21 A Yes, they have a director in each county and  
22 they have a location in each county.

23 Q And just for the record purposes, the NRCS is  
24 a division of the United States Department of  
25 Agriculture; is that right?

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1 A Yes, sir, that's right.

2 Q This will go on all day.

3 A You mean the train or you?

4 Q Not me. Who is the human being with the NRCS  
5 in Mayes County who writes plans today?

6 A I don't think I can tell you that because I  
7 think they were getting a new one at this time and I  
8 don't know -- I don't know that I have met the new  
9 person, if they have already put someone in that  
10 place.

11 Q Same question for the other counties; Rogers  
12 County?

13 A You know, to know the director actually, I  
14 don't. I know in Delaware County I know the  
15 director. I know in Craig County because they've  
16 been there a while. Eric Daniels is in Delaware  
17 County. Eric Fran, I believe it is, is in Craig  
18 County.

19 Q Are you given --

20 A The others counties have changed so often that  
21 I can't --

22 Q Are you talking about the directors or the  
23 plan writers?

24 A Well, I'm talking about the directors.

25 Q Okay.

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1 A And that's who I usually talk to about it, and  
2 I think they assist in writing those plans.

3 Q You think the directors themselves assist in  
4 writing the plans?

5 A I think so.

6 Q Okay.

7 A I don't know that, but I mean, I'm not there  
8 watching them, but --

9 Q Okay. What about Delaware County, who's the  
10 plan writer in Delaware County today?

11 A Well, who I talk with is Eric Daniels.

12 Q Is he the director?

13 A Yeah, that's -- I don't know if that's what  
14 they call him or not, but he's the one that's in  
15 charge of that.

16 Q Let me tell you what Dan Parrish testified to  
17 last year in a deposition, and that's the reason I'm  
18 asking you these questions.

19 A Okay.

20 Q He testified that out of 830 registered  
21 poultry operations in Oklahoma, 360 have plans in  
22 place, and whatever the remaining number is have  
23 letters saying we're going to get around to you, and  
24 he told me that NRCS is out of the plan writing  
25 business. Now, that was last year, so I'm curious

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1 about squaring up what he said in his deposition in  
2 another case with what you just testified to. I'm a  
3 little surprised that 90 percent of the growers have  
4 plans actually in place today in your counties,  
5 given Parrish's testimony.

6 A Well, I -- I -- I didn't count them, but I'm  
7 just going by the best recoll -- recollection that I  
8 have.

9 Q Okay.

10 A And I've had a lot of plans that's been in my  
11 area that had been made by two guys that are on  
12 contract with the State Department of Agriculture.  
13 Ed Abernathy comes in my area and writes plans.

14 Q Who?

15 A Ed Abernathy.

16 Q Could you spell that for the reporter, please?

17 A I can't spell that, but I think spell Ed, E-D.

18 MR. McDANIEL: It's Abernathy.

19 Q (By Mr. Elrod) Abernathy?

20 A Yes.

21 Q Okay. I'm sorry. And then who's the other  
22 one?

23 A R.C. Brinley, I believe.

24 Q He's not related to Rex Brinley, is he?

25 A I hope not.

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1 Q Let's talk for a minute about your  
2 reporting --

3 A Oh --

4 Q -- go ahead.

5 A Before we leave that, I don't want it to sound  
6 like that I'm just contradicted what Dan has said.  
7 He has the records over there. But, you know, to  
8 the best that I can see in my area, I don't think  
9 that's true in some of the other areas. I think  
10 that some of them maybe don't have any, I don't know  
11 about those particular areas, but I -- and if that's  
12 the case, and I'm sure what Dan gave you was  
13 correct, then a good portion of those is going to be  
14 my area.

15 Q But it's your impression, and I'm not fussing  
16 with you or arguing with you, I just want to know  
17 what your impression is, it's your impression that  
18 most of the people for whom you have responsibility  
19 have plans in place?

20 A I think so.

21 Q Okay.

22 A I think so.

23 Q All right. Now, let's talk about your  
24 reporting responsibilities for a second. Tell me  
25 the hierarchy, working down to you, and I don't mean

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1 down to you, but I suppose that's the way we talk  
2 about hierarchies.

3 A I got it right.

4 Q Talking about Dan Parrish at the top; right?

5 A Yes, sir.

6 Q Okay. Then I'm looking at a web page. Janet  
7 Burns, Sally Abbott, Norma Aldridge, Lester  
8 Goldsmith, appear to be administrative people in the  
9 office. Do you know them?

10 A Yes, I do.

11 Q Okay. And what is the job of Quang Pham as an  
12 engineer, if you know?

13 A I don't know for sure.

14 Q What about Harold Springer?

15 A I don't know for sure.

16 Q H.J. Thung, T-H-U-N-G?

17 A I don't know for sure.

18 Q All right. What about Jim Shirazi, who's  
19 described on the web site as being a hydrologist?

20 A I'm not sure of that either.

21 Q Do you interface with Mr. or Dr. --

22 A I know those men.

23 Q Okay. And then there's a number of inspectors  
24 listed from Geary Green to Rita Price, and you're on  
25 that list. Who do you report to?

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1 A I report to Dan.

2 Q Okay. And are there formal reporting  
3 requirements, by that I mean are there standardized  
4 forms that you send information upstream, do you  
5 just pick up the telephone and call him, is that  
6 sporadic, is it daily, or explain --

7 A No, it's sporadic, and I just pick up the  
8 phone and call him. Then we have a weekly report  
9 that we -- we are sent that we send in, and -- and  
10 then we have a summary monthly report.

11 Q And are those reports of your activities?

12 A Yes, they are.

13 Q Any other standardized reports?

14 A No.

15 Q And are those --

16 A That I know of. I can't -- I think that's the  
17 only -- only ones.

18 Q Are the weekly and monthly reports on forms?

19 A Yes, they are.

20 Q All right. Let's return to your duties. You  
21 told me you perform an inspection once a year. What  
22 do you do when you perform an inspection?

23 A Well, I get the name and address and update  
24 that information on the -- on the grower. I ask to  
25 see his current restoration certificate. I make

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1 sure that that figure that he's registered for and  
2 the number of birds is -- is what I put on my  
3 inspection sheet. I ask him for his current soil  
4 and litter test analysis, and I -- I look at those  
5 and I put that current soil and litter analysis date  
6 on the inspection sheet. It asks me if they have an  
7 animal waste management plan, and I indicate they do  
8 or don't.

9 Q Do you ask -- ask to actually see it?

10 A Yes, I do look at them. I actually look at  
11 them. And so there's questions about catastrophic  
12 loss, have you had one this past year.

13 Q Why do you ask that question?

14 A Well, we need to know if they've had any more  
15 death.

16 Q Are you talking about animal loss?

17 A Animal loss.

18 Q Okay.

19 A Than -- than a normal mortality that they go  
20 through, because there's special ways that they have  
21 to handle a catastrophic loss.

22 Q In terms of bird disposal, you mean?

23 A Yes, bird disposal.

24 Q Do you see that very often, catastrophic loss?

25 A Well, not very often, but you see it in the

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1 summer a lot. We see it sometimes when the  
2 computers go down, fans go down occasionally. And  
3 then in the past, we've had some disease outbreaks  
4 that caused it.

5 Q What kind of disease; LT?

6 A LT primarily, yes, sir.

7 Q Okay. Are these surprise inspections?

8 A Yes, they are in most cases, yes. Some cases  
9 no, because they're working and I -- I've been there  
10 since '98 and I know just about when I can catch  
11 them where they're available or whether they're not,  
12 and who keeps the records, if it's the lady or the  
13 man, and where the records are.

14 Q Do you get to know these people pretty well?

15 A Yes, sir, I do.

16 Q And for the most part, are they cooperative  
17 with you?

18 A Yes, sir, they are.

19 Q Courteous?

20 A Yes, sir.

21 Q Have you had any problems with any hostility  
22 at any time ever?

23 A Starting out, you know, it was a change, and  
24 farmers are pretty conservative and independent  
25 people.

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1 Q Yes, sir.

2 A And I felt like my job, the first year or so,  
3 was PR work, kind of getting to know them a little  
4 bit and letting them know me. And eastern Oklahoma  
5 is not just like anywhere, and so I think it's been  
6 to my advantage and the State's advantage for the  
7 job that I do.

8 Q You mean the attitude that you bring to the  
9 job?

10 A Yes, I think so, and -- and what I need to  
11 know, they feel more free to give me the  
12 information. If I -- my -- another way of  
13 describing it, you know, of being someone that comes  
14 and regulates. You can come with a gun on your  
15 side, you know, and they'll give you what you want,  
16 but I think you can go and give them a handshake and  
17 they'll give you what you want, and I kind of  
18 operate from that standpoint.

19 Q Any bad actors out there?

20 A You know, not many now, no. I can't -- I  
21 really don't have one.

22 Q Okay. Now, I get the impression that in terms  
23 of getting a plan written, that's the responsibility  
24 of the grower dealing directly with NRCS?

25 A That's true.

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1 Q Okay. And your sole role in that is to knock  
2 on the door and find out if they've got a plan and  
3 ask to see it; is that true?

4 A Yes, and I do that at the time that I do the  
5 inspections, that's some of the material that they  
6 furnish me when I sit down to do their inspection.

7 Q Okay. What else do you do on the inspections  
8 that we haven't talked about yet?

9 A I -- I check their education certificates to  
10 make sure that they're up to date on their education  
11 certificates. I get information in regards to where  
12 the litter has been gone, where it's gone to, if  
13 it's been sold or given away to somebody or place,  
14 if they've spread it on their land, the fields that  
15 they spread on, and I get the amount of tonnage that  
16 they have cleaned out, whether they have cleaned out  
17 or caked out their buildings or have a total clean  
18 out. I get that in tonnage. I get information  
19 about whether they have stored it. A lot of them  
20 now have storage buildings and they will store it in  
21 there, so I get that information, get them to sign  
22 it, that's about it, I guess.

23 Q Have you caught anybody in a lie in the almost  
24 10 years now?

25 A Yeah, I would have to say I have. I don't

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1 remember it specifically, but I know that I have.

2 Q Okay. Very often?

3 A No, sir.

4 Q Okay. Now, you also testified that you  
5 provide -- do you think we've now covered all of  
6 your activities as part of the inspection aspect of  
7 what you do?

8 A That -- the inspection, then I do complaints,  
9 you know, that's called in to the State and they  
10 refer them to me, and I go out and investigate the  
11 complaints, and I do soil testing sometimes, if  
12 that's required in the complaint. We have done, in  
13 the past, routine soil testing and --

14 Q Let's talk about complaints for a second.  
15 What kinds and types of complaints do you receive,  
16 and are they anonymous?

17 A I would say in my area that at least half and  
18 maybe more are anonymous.

19 Q Okay.

20 A Probably more.

21 Q And how often do you get a complaint, and then  
22 we'll talk about the types of complaints? You're  
23 using the word complaint as a term of art, aren't  
24 you? I mean, a complaint is something that's  
25 official, it's not just somebody whining to you at

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1 the coffee shop?

2 A No, that's right, that's right.

3 Q Okay.

4 A In fact, I need to point out, I don't take  
5 complaints personally when I'm out in the field. I  
6 might call if somebody has told me something, I  
7 might call Dan and tell Dan about it, but I don't  
8 investigate anything that people just tell me out  
9 here on the street or -- or in the coffee shop or  
10 something like that. I tell them that they have to  
11 call the State and give information and make it a  
12 formal complaint, and then they'll contact me and  
13 I'll investigate it.

14 Q So the complaint comes from the complainant to  
15 Dan Parrish's office, and then back to you for  
16 action?

17 A That's exactly right.

18 Q All right. Now, how many of things do you  
19 deal with on an annual basis, approximately? I  
20 don't know if it's so --

21 A Thirty or 40. I -- you know, I don't know. I  
22 have a lot in my area compared to the other  
23 inspectors because of the sensitive area that it is,  
24 and I -- I think that's the reason, new people  
25 moving in.

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1 Q So 30 to 40, maybe one a week, one every two  
2 weeks, somewhere in that range?

3 A Yeah, and sometimes 10, then I might skip a  
4 month.

5 Q What types of complaints, what do they cover?

6 A Well, mostly odor.

7 Q Uh-huh. Does that come from the country  
8 banging up against the city?

9 A I think so.

10 Q Okay.

11 A The water contamination, well contamination,  
12 spreading litter without a license, without soil  
13 samples, and usually in those kind of complaints,  
14 included in those will be, and it smells horrible,  
15 so --

16 Q Is that your word or are those the words of --

17 A That's the words they'll say.

18 Q Okay. All right. So --

19 A Be in the complaint.

20 Q In the complaint?

21 A Sir?

22 Q In the complaint they say it smells horrible?

23 A Yeah, that's right, they will.

24 Q Now, do you get more of those odor complaints  
25 during any particular season of the year?

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1 A Yeah, probably in summer, you know, it's more  
2 litter.

3 Q More litter being spread?

4 A Yeah.

5 Q I'd like to try to get a breakdown, and I know  
6 we're just searching your memory and your experience  
7 right now so I don't expect precision, but out of  
8 the 30 to 40 complaints you deal with a year, what  
9 percentage of those would be regarding odor?

10 A Included in the complaint, a good number of  
11 them.

12 Q Okay.

13 A They have other issues in it, but odor will  
14 always -- not always, but a good part of the time  
15 will be included in it.

16 Q Is it your impression that odor is typically  
17 the driver of the complaint being made in the first  
18 place?

19 A Yes, sir, that's my impression.

20 Q That's all right, that's all I can ask you.  
21 And is it your impression, then, that the other  
22 parts of a complaint are usually tag along?

23 A Well, I don't know that to be a fact. I -- I  
24 think they are sometimes serious about what they  
25 have made allegations about, but really don't know.

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1 They're sitting from a roadside or drive by or maybe  
2 across the road or a neighbor or something, so they  
3 don't know sometimes.

4 Q Now, give me a feel for how many of your  
5 complaint investigations have shown the complaint to  
6 be true? Forgetting odor for a second.

7 A Well, let me tell you, when I go out a  
8 compliant, I investigate it and I write down  
9 everything. I report it to the State, I make a  
10 report on it, and then if it's in regards to well  
11 contamination, I look that issue up. If it's in  
12 regard to that odor, I put my nose to it, and  
13 overapplication sometimes, then I write a report and  
14 I send it in to the State, and the State makes those  
15 decisions. Now, once they have determined from my  
16 investigation maybe they need me to do a soil  
17 sample, they'll contact me and I'll go out and do a  
18 soil sample. Maybe from my investigation they say,  
19 we didn't find anything, and I don't write that I  
20 didn't find anything, I don't write that I recommend  
21 that this guy gets fined or he's -- this or that, I  
22 just write down the facts, as Joe Friday used to  
23 say.

24 Q Okay.

25 A And they make the decisions. They'll send a

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1 letter to the complainant and also to the person  
2 it's against, if they have the names and addresses  
3 of those people. Many times, if it's anonymous,  
4 I -- I, you know, am told, I know it's so and so,  
5 you know, but I don't know. I don't -- I don't look  
6 for them.

7 Q Give me a feel for the number of complaints or  
8 investigations of complaints that have to do with  
9 applicators as opposed to farmers or growers. Is  
10 that a fair question?

11 A Farmers that are applying litter on their own  
12 farm or what --

13 Q Let's break it out. Let's break it out  
14 between farmers who are applying litter on their  
15 farm as -- what's the word, private applicators?

16 A That's private applicator, yes, sir.

17 Q Versus commercial applicators.

18 A That's right.

19 Q All right. Let's separate the world into  
20 those two types of people. How many -- give me a  
21 feel for what percentage of complaints are against  
22 private applicators versus commercial applicators.

23 A I don't know how to break that out. I -- I  
24 would think that -- and this is strictly my opinion  
25 and guesswork that the application, complaints about

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1 application is -- probably most of the time is  
2 commercial applicators from commercial applicators.

3 Q How many commercial applicators do you have  
4 operating in your region?

5 A I have 150, I imagine. Commercial?

6 Q Yes, sir.

7 A No, that's a total of private and commercial.  
8 Commercial, probably 30, I don't know, approximately  
9 20 or 30.

10 Q Let me ask you about those 20 or 30 and how  
11 they operate, if you know. Would it be more true  
12 that those people buy litter and then resell litter  
13 and apply it as part of the reselling process or do  
14 they simply act as a middleman and transfer litter  
15 from one place to another? That was a very bad  
16 question but --

17 A No, I understand it. I think I understand it.  
18 In most cases, I think, they buy the litter. Get  
19 the litter from the grower. And they transport it  
20 and sell it and spread it.

21 Q Okay. So in most cases, the commercial  
22 applicators are buying and selling litter, buying it  
23 and reselling it?

24 A That's true, I think.

25 Q Now, for the people who do that, is it your

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1 impression that a lot of them it's their full-time  
2 job?

3 A They usually have other things that they do,  
4 the ones I know.

5 Q You also testified that you participate in  
6 educational classes. Tell me about that.

7 A Well, the grower is responsible for getting an  
8 initial nine hours when he first signs up, and  
9 within the first year he's required by law to get  
10 initial nine hours of education, and those are done  
11 by the OSU director in different counties, put those  
12 on. Then they are required, after they have the  
13 initial nine hours, to have a three hour update  
14 continuous education class every year. Because of  
15 changing of our forms and sometimes our way of doing  
16 business with the Department of Ag and sometimes,  
17 most of the time because they don't understand and  
18 won't read some of the stuff, I have gone and given  
19 some classes to growers and applicators on the three  
20 hour continuous education all the way from Broken  
21 Bow to Afton at different locations. And it was  
22 primarily on helping them to understand how to  
23 report their litter information, how to get their --  
24 it was -- it was in regards to the rules and  
25 regulations is what it really was.

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1 Q Okay.

2 A And I've done that for the last three years or  
3 four years, I guess.

4 Q Tell me what's taught. Tell me what's taught  
5 in the initial nine hour program and what's taught  
6 in the three hour annual continuing education  
7 course.

8 A Well, in the nine hour, and I don't have it  
9 all in my mind, but in the nine hour class, they --  
10 initially they talk about the rules and regulations,  
11 and that will be a combination of probably  
12 approximately three hours, and then they'll talk  
13 about the animal waste management plan, how to use  
14 it, what it's for, you're supposed to get it, then  
15 they'll talk about application rates, about, you  
16 know, the proper way of spreading litter and how you  
17 can spread it. They'll have in that --

18 Q Let me stop you just for a second.

19 A Yes, sir.

20 Q In Oklahoma, the amount that can be applied  
21 under an animal waste management program is not  
22 limited to the agronomic uptake rate of a particular  
23 plant, is it?

24 A No, it's not right now, to my knowledge, it's  
25 not.

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1 Q All right. And forgive me for interrupting.  
2 When thoughts go into my brain, I have to say them  
3 immediately or they'll be gone. Go ahead, please.

4 A I forgot where I was.

5 Q You were talking about what's taught in the  
6 nine hour program --

7 A Oh.

8 Q -- and what's taught in the three hour  
9 program.

10 A Included in some of the application  
11 information that they put forth, they will explain  
12 how to calibrate a truck, calibrate the rate of  
13 litter that -- that will come from -- spread on the  
14 land. That's primarily it for the nine hours, you  
15 know. It takes nine hours to get all that through.

16 Q Is there a Power Point presentation that's  
17 used or slide show or something like --

18 A Yes, they have some slides to show them at the  
19 same time. They also do a pre-test and then a  
20 post-test, you know. I don't think -- we don't do  
21 any grading on them, but they fill out and ask  
22 questions and they answer them, and then after they  
23 have seen the slide and the presentation, well,  
24 then, they -- and they do that -- there's actually  
25 nine different subjects, but some of the subjects is

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1 related -- like to the rules and regulations is  
2 related, and so they have nine little tests that  
3 they will do, and then after they see the  
4 presentation, they'll do another one.

5 Q If I --

6 A Hopefully they learned something.

7 Q If I wanted to obtain a copy of the slide show  
8 or the Power Point presentation, who would I get  
9 that from? Who presents it, who's got it?

10 A OSU.

11 Q Oklahoma State University?

12 A Oklahoma State University.

13 Q Is there extension agents or whom?

14 A Yes, I guess the extension agent, I don't know  
15 for sure, maybe over at Stillwater.

16 Q Like can you give me the name of a person in  
17 one of the particular counties that would have this  
18 thing that I could go get if I wanted to?

19 A Well, I can give you a name of the one that is  
20 in charge, I think right now, and that is Dr. Josh  
21 Payne.

22 Q P-A-Y-N-E?

23 A Yes, sir.

24 Q At Stillwater?

25 A I think his office is in Muskogee, but yes,

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1 he's --

2 Q Okay.

3 A -- at Stillwater.

4 Q All right. What about the three hour course?

5 A The three hour course is a continuation  
6 education that they're required to get once a year,  
7 after they have received the nine hours, and it  
8 consists of a lot of different things. It may be  
9 about bugs in their houses, it may be about rodents  
10 in their houses, it may be about controlling weeds,  
11 you might -- application rates, riparian areas, so  
12 there's a lot of different subject matter, and that  
13 there is determined by the educator, which in this  
14 case right now, the one that's in charge is Dr.  
15 Payne.

16 Q Let's hypothetically presume that there are no  
17 company -- there were no company managed registered  
18 poultry operations in your area. Just set that  
19 aside for a moment. If -- if that were true, would  
20 it also be true that none -- no representatives of  
21 any of the integrated poultry companies show up for  
22 these educational meetings or are asked to? Do you  
23 understand that?

24 A Yeah, explain that. Do that again.

25 Q Let me try it this way. These educational

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1 programs and educational requirements --

2 A Yes.

3 Q -- are for the growers?

4 A That's right.

5 Q So if there were no company managed farms that  
6 were also growers, would it be true that there would  
7 be no company representatives either asked to or who  
8 would show up for these educational meetings?

9 MR. NANCE: Object to the form. You can go  
10 ahead and answer.

11 Q (By Mr. Elrod) And then we'll talk about the  
12 company managed farms in a second.

13 A Am I supposed to answer now?

14 Q Yeah, go ahead.

15 A Anyone can come to these meetings.

16 Q Sure. But they don't --

17 A But to my knowledge, to my knowledge --

18 Q Yeah.

19 A -- the ones that do not -- that are not  
20 registered with the Oklahoma Department of  
21 Agriculture as a poultry grower or an applicator,  
22 commercial or private, don't get an invite. I  
23 mean --

24 Q Sure.

25 A -- they don't get any information to come to

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1 these --

2 Q Okay.

3 A -- educational classes. There is some company  
4 men that has attend --

5 Q Let me --

6 A -- the education classes.

7 Q Let me ask you about that. How many company  
8 managed, those are my words, company managed farm  
9 operations are there in your area?

10 A Simmons.

11 Q Okay.

12 A Has some, and they have a gentleman and  
13 gentlemens that comes to the education classes --

14 Q Okay. Anybody else?

15 A -- regularly. No, sir, I don't think so, not  
16 in my area.

17 Q Okay. And do you know how many Simmons  
18 company managed farms there are currently in your  
19 area?

20 A There were 19 -- I'm not sure now because they  
21 have sold some of them.

22 Q Uh-huh.

23 A And I think it's like 13, but that's an  
24 approximate figure, I don't know for sure.

25 Q Do you have any Hmong growers in your area,

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1 H-M-O-N-G, I think, or it's M-H-O-N-G?

2 A Yes.

3 Q You do? What do you do about the language  
4 barrier?

5 A You work on it.

6 Q Do you speak HmOng?

7 A No, no. I -- in most cases, they have someone  
8 that can speak pretty good English and you can  
9 understand them. On the telephone, it's difficult  
10 for me. I don't -- I don't -- my tone, I'm kind of  
11 tone deaf in some things and I don't understand very  
12 well. But when I'm talking face-to-face to them, I  
13 understand them pretty well.

14 Q Okay.

15 A And maybe the hardest part is whether they  
16 understand me or not, what the words are and what  
17 they mean.

18 Q Does the State of Oklahoma make any effort to  
19 make sure that there's understandable communications  
20 between inspectors like you and growers who are  
21 Hmong?

22 A Yes, sir, I think so. I -- I have personally  
23 set up some education classes and invited all the  
24 HmOngs to come and had another inspector with me  
25 that we sat down and took our inspection sheets and

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1 went over and showed them what they meant and how to  
2 do it, and we had an interpreter there. The trouble  
3 with the interpreter was he didn't understand -- he  
4 could interpret what we said, but he didn't know  
5 what we meant, so we -- we had a long session, but I  
6 think it was good, most of them came, and so we've  
7 made efforts, and I spend a lot of time with them.

8 Q Let me ask you some questions about sometimes  
9 it's difficult to -- I mean, we have to use words,  
10 right? I'm going to use the word typical. I want  
11 to try to probe with your mind about what your  
12 typical grower is like, what a grower profile would  
13 be. And by that I mean, things like does momma  
14 teach school and daddy work at the farm and they  
15 have two or three houses and 80 acres of land and  
16 some cattle? You know, what would you view the  
17 typical grower in northeast Oklahoma in your area to  
18 be like in that regard?

19 A I think in most cases at least one of them  
20 will work off, different types of jobs. I don't  
21 know for sure what they do. I have several that --  
22 some of the older ones that they just work on the  
23 farm. They have cattle operations along with the  
24 poultry, and maybe haying operations, but they do a  
25 lot of other things besides just take care of

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1 poultry, either on the farm --

2 Q Okay.

3 A -- or off.

4 Q What about the typical land size of a poultry  
5 farm in that area of the world; 40, 60, 80, 120, 500  
6 acres? We may end up playing this to a jury  
7 someday, and I want a jury from northeast Oklahoma  
8 to understand what the agricultural practices are  
9 like in your area of the world, and that's the  
10 reason I'm asking these questions. So what about  
11 the typical size of farm?

12 A I think the typical size, you know, is in the  
13 neighborhood of a hundred. It depends on the  
14 counties, because some of the counties, you know,  
15 have larger land holdings, but probably a hundred,  
16 hundred and 50 acres, you know. I have a lot that  
17 doesn't have but 20, 30 acres. Several, I don't  
18 know the numbers, but several that just have poultry  
19 houses and get rid of their litter at home. They  
20 have never applied and they just sell their litter  
21 or give it away.

22 Q Out of the 205 or 210 operations that you have  
23 responsibility for, can you give me a feel for what  
24 percentage of those also have cattle? And again,  
25 I'm not asking you to be precise, but I'd like to

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1 know whether it's 10 percent or 50 percent or 90  
2 percent.

3 A I -- it's pretty high, 70 percent or so,  
4 probably.

5 Q Okay.

6 A Maybe higher than that.

7 Q Would you agree that there is a symbiotic  
8 relationship between litter and cattle?

9 A Yes.

10 Q Okay. And by that, I can tell you what I  
11 mean. I mean the litter is spread on land for  
12 pasture growth and for hay production, and the  
13 cattle --

14 A Cattle forage, yeah.

15 Q Cattle forage, that's the typical relationship  
16 in --

17 A I think so, I think it is.

18 Q Okay.

19 A That's just me.

20 Q And based on your experience in the last nine  
21 years, you think that most of the growers are taking  
22 a responsible approach toward litter management?

23 MR. NANCE: Object to the form. Go ahead.

24 A Do what?

25 MR. NANCE: You can go ahead and answer.

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1 Q (By Mr. Elrod) This is going to happen.

2 A Ask that again.

3 Q Do you think that based on your last nine  
4 years of experience in the northeast Oklahoma, that  
5 most of the growers are taking a responsible  
6 approach towards litter management?

7 MR. NANCE: I object to the form of the  
8 question. You can answer it, John.

9 A I -- excuse me, ma'am. I think -- I think so.  
10 I think more so now than they were early on, but  
11 yes, I think so.

12 Q (By Mr. Elrod) Do you know of any growers in  
13 your area who you believe have a malicious intent to  
14 harm the waters of the state of Oklahoma?

15 A No, sir, I do not.

16 Q Okay. I've got a message that we need to take  
17 a break, so let's take five, 10 minutes.

18 A All right.

19 VIDEOGRAPHER: We are now off the record.  
20 The time is 10:22 a.m.

21 (Following a brief recess at 10:19 a.m.,  
22 proceedings continued on the record at 10:31 a.m.)

23 VIDEOGRAPHER: We are back on the record.  
24 The time is 10:35 a.m.

25 Q (By Mr. Elrod) Let me hand you what I've

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1 marked as Littlefield Exhibit 1. I need one myself.

2 Mr. Littlefield, does this appear to you to be a  
3 copy of the Oklahoma Registered Poultry and Feeding  
4 Operations Act, the Oklahoma Poultry Waste Transfer  
5 Act, and the Oklahoma Poultry Waste Applicators  
6 Certification Act?

7 A Yes, it is.

8 Q All right, sir. And these are the Acts under  
9 which you operate?

10 A Yes, sir.

11 Q Look at 10-9.3, which should be the third  
12 page. It is true that under the Act in the ODAFF  
13 regs that one cannot construct a poultry house in  
14 Oklahoma without first seeking to have it registered  
15 with the Department of Agriculture?

16 A Yes, sir.

17 Q So it would be true that if the Department of  
18 Agriculture in Oklahoma chose to -- chose that there  
19 would be no new house construction in Oklahoma, it  
20 could do so?

21 A I don't know.

22 Q Has that issue ever been discussed between you  
23 and your elders at ODAFF?

24 A No, sir.

25 Q There's never been any discussion that you've

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1 been involved in to the effect that maybe we ought  
2 to just stop issuing licenses for construction of  
3 new houses?

4 A No, sir, I don't remember hearing that.

5 Q Okay. And looking at 10-9.4, it's also true  
6 that one must reregister if the litter production is  
7 going to have a 10 percent increase from the amount  
8 of litter originally registered?

9 A That's true.

10 Q All right. Does that ever happen --

11 A Yes, sir.

12 Q -- in your experience? What are you seeing as  
13 the typical clean out time period in your area of  
14 Oklahoma; once a year, once every two years,  
15 cake-out between flocks? Explain what you know  
16 about that. Decake, I should have said.

17 A When I started and the first several years it  
18 was once a year, and cake-out when it was needed,  
19 being maybe two or three, three or four times a  
20 year. In the last few years, I think the most  
21 typical is got longer to clean out, between clean  
22 outs, I'm talking about, and they do cake-out after  
23 every flock, primarily, most of them now, broiler  
24 houses. Some has gone as long as two or three, four  
25 years without cleaning out.

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1 Q And --

2 A Not many, but a few.

3 Q And the reason for the length and the time  
4 between clean outs is what, in your opinion?

5 A It's strictly my opinion because, you know, I  
6 don't -- I don't run their operation. But the  
7 shavings that they replenish, put back in the houses  
8 with the new chicks, is expensive, hard to get.  
9 They have got more expensive. That's one issue.  
10 The other issue is that some of the farmers, you  
11 know, like the idea of having some bedding in there  
12 as long as they keep it dry, keep it tilted.  
13 Probably the litter issue, the publicity and things  
14 like that, have caused some that's not interested to  
15 go through any headaches and problems, they just  
16 make it work as long as they can before they clean  
17 out.

18 Q You don't believe chicken litter to be a  
19 hazardous waste, do you, sir?

20 MR. NANCE: Object to the form. You can go  
21 ahead.

22 A Well, my belief --

23 MR. NANCE: And that it calls for a legal  
24 conclusion. Go ahead.

25 Q (By Mr. Elrod) Go ahead.

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1 A No, I don't, not me. But I don't have any,  
2 you know, scientific proof, but I don't believe it  
3 is.

4 Q Do you know of any instances yourself, in the  
5 last nine years, where anybody has suffered adverse  
6 human health effects from litter?

7 A Again, that's just an opinion. I really don't  
8 know. I -- I've had some to say that they have on  
9 complaints. Knowing it for a fact, I don't.

10 Q People who are not involved in the industry  
11 have asserted a complaint to the State of Oklahoma  
12 that they're wheezing and coughing or what?

13 A That's what they've claimed.

14 Q And we'd find those complaints in the ODAFF  
15 records if we were --

16 A Whether it's caused health problems?

17 Q Yeah, uh-huh.

18 A Well, I would assume, yeah.

19 Q And what was the result of your investigation  
20 of those particular complaints?

21 A Well, they was incorporated with a lot of  
22 other things, odor and things. And health issues,  
23 if they went to a doctor I may, you know, have  
24 stated that in my report, that they saw a doctor or  
25 something, but I didn't know whether they did or

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1 didn't.

2 Q And can you quantify these kinds of  
3 complaints? Out of the 30 or 40 you get a year, how  
4 many of those would include an assertion by the  
5 complainant that they're wheezing or coughing or  
6 whatever it is?

7 A I don't know, one or two, two or three.  
8 Again, that's -- you know, you can get that from the  
9 complaints, but I don't know for sure.

10 Q And hopefully --

11 A Not many.

12 Q Not very many? And these are all airborne  
13 type complaints as opposed to water contact  
14 complaints?

15 A Yes, mostly, mostly airborne, I would think  
16 so.

17 Q All right, sir. And if we are -- if we can  
18 find somebody on this side of the table that is  
19 patient enough to go through all the complaints at  
20 ODAFF one day, then that's where those complaints  
21 will show up and we'll be able to quantify them; is  
22 that true?

23 A I would think so. I don't --

24 Q If it ain't -- if it ain't in the records, it  
25 was not a complaint as far as you're concerned, is

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1 that what you testified to earlier?

2 A Well, I don't know if I understand your  
3 question exactly, but I -- I only go out on  
4 complaints that is -- that has been called into the  
5 department --

6 Q Okay.

7 A -- and then they've called me.

8 Q That's what I meant.

9 A So those I go do investigate.

10 Q Have you been involved in the last nine  
11 years -- I'm looking at 10-9.5 big C towards the  
12 bottom of the next page, talks about penalties and  
13 fines?

14 A It's what now?

15 Q Penalties and fines, F-I-N-E-S. Have you been  
16 involved in any situations at all in the last nine  
17 years where criminal charges were brought against  
18 somebody for violation of the Act?

19 A Not to my knowledge, but I -- I don't have  
20 anything to do with that. I mean, that's done by  
21 our legal department, and I don't know that they  
22 would have an occasion to. If it was a grower in my  
23 area, they would -- I would think that they would  
24 let me know, but otherwise, they wouldn't have any  
25 reason to let me know if it was something else.

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1 Q What is the most -- strike that. Looking at  
2 the next page, maybe the page after that, I'm at  
3 section 10-9.7 large B, top of the -- a couple of  
4 pages over, are you with me? It talks about the  
5 criteria for BMPs?

6 A Yes.

7 Q Are you aware of any growers in your area of  
8 the state who are discharging poultry waste to the  
9 waters of the state of Oklahoma?

10 A I'm not aware of any.

11 Q Okay. Will you agree with me that the Acts,  
12 A-C-T-S, that we're looking at in Exhibit 1 are the  
13 method by which the legislature and the governor of  
14 the State of Oklahoma have decided to regulate the  
15 use of poultry litter in Oklahoma?

16 MR. NANCE: Object as calling for a legal  
17 conclusion. You can go ahead, if you know.

18 A I -- I really don't -- I don't know that --  
19 exactly what they were after, I don't --

20 Q (By Mr. Elrod) But -- but these are the Acts  
21 that we're looking at here --

22 A Yes.

23 Q -- that control --

24 A Yes.

25 Q -- the management of the poultry litter in

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1 Oklahoma?

2 A Yes.

3 Q And because they're Acts in the legislature,  
4 they would have had to have been passed by the  
5 Oklahoma legislature and then signed by the governor  
6 to become law; is that true?

7 A I -- I think so.

8 Q Did you take eighth grade civics?

9 A Yeah.

10 Q Let's move back to the characterization of  
11 agriculture in northeast Oklahoma, if we could for a  
12 second. We've talked about cattle and poultry and  
13 the fact that the two are often mixed on the same  
14 farm; is that right?

15 A Yes, sir.

16 Q Is there also new row crop production in  
17 northeast Oklahoma in your area?

18 A Yes, there is some.

19 Q Consisting of soybeans?

20 A Yes.

21 Q Green beans?

22 A Yes.

23 Q Anything else that you know of?

24 A Wheat.

25 Q Okay.

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1 A Corn.

2 Q Okay. And to your knowledge, do row crops in  
3 northeast Oklahoma receive chicken litter, poultry  
4 litter?

5 A How many row crops?

6 Q Do they?

7 A Do they?

8 Q Uh-huh.

9 A There's a few that do. There's a few that  
10 uses poultry litter on the row crops.

11 Q That would be atypical, though, wouldn't it,  
12 it's not very common?

13 A It's not very common.

14 Q Most of it would be spread on Bermuda grass  
15 and fescue pastures for hay production and forage  
16 production for beef cattle?

17 A In my area, yeah, I think that's right.

18 Q Okay. In your view, given your nine years of  
19 experience in the field, what would happen to cattle  
20 production in northeast Oklahoma if all the litter  
21 was pulled out, if there was no chicken litter?

22 MR. NANCE: Object to the form. Go ahead.

23 A I -- you know, I couldn't answer that for sure  
24 because there's no way that I would know, although I  
25 think in the past that it has helped some of the

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1 farms.

2 Q (By Mr. Elrod) And will you agree with me  
3 that the location of the application of chicken  
4 litter, and so long as you are complying with your  
5 animal waste management plan, the rate of  
6 application of chicken litter are decisions that are  
7 made by either commercial applicators or the growers  
8 themselves and not by other companies?

9 A I think that's true.

10 Q Okay. Are you familiar with the cooperative  
11 agreement between the Department of Agriculture and  
12 the Oklahoma Attorney General's Office?

13 A No, I'm not acquainted with any.

14 Q You just saved yourself 15 minutes.

15 A Good.

16 Q Do you agree with Secretary Peach that the  
17 Oklahoma Department of Agriculture has no concern  
18 about arsenic runoff from chicken litter?

19 A Well, I don't know what Commissioner Peach has  
20 said.

21 Q Well, let me represent to you that on page 56  
22 of the deposition he gave last year in another case,  
23 that that was his testimony. Have you ever heard  
24 any concern voiced outside of this lawsuit about  
25 arsenic in chicken litter being run off into the

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1 water?

2 A No, I haven't.

3 Q Okay. Now, I want to turn to a May 3, 2005  
4 meeting that you -- I think you attended along with  
5 Secretary Peach with certain growers. Does that  
6 name -- does that date ring a bell?

7 A When is this date?

8 Q May 3, 2005. I think there was a meeting  
9 between Secretary Peach and you, and perhaps Dan  
10 Parrish, and a lawyer here in Tulsa, and five or six  
11 growers who had been selected to be -- have sampling  
12 done on their property, do you remember that?

13 A Yeah, I -- I remember having a meeting. I  
14 don't know if that's the same one or not because I  
15 don't remember the dates. Was it at Little Kansas  
16 at the --

17 Q I think so.

18 A -- at the vo-tech school?

19 Q Yes, sir.

20 A Okay.

21 Q All right.

22 A Yes, sir.

23 Q You've got the meeting in mind now?

24 A Yes, I do.

25 Q All right. Who all was there, as best you can

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1 recall?

2 A Oh, my.

3 Q Just give it your best shot.

4 A Well, Commissioner Peach, of course, was  
5 there. There was several -- several growers that  
6 had been contacted to do testing on their land were  
7 there. There was -- I remember -- I don't remember  
8 who it was, but I remember somebody telling me that  
9 there was an attorney from one of the poultry  
10 companies there. There was people from the  
11 partners, Poultry Partners Group there.

12 Q What was the purpose --

13 A Of course, myself.

14 Q Yeah. And what was the -- and what was the  
15 purpose of the meeting? Who called the meeting?

16 A I believe Commissioner Peach did.

17 Q Okay. And what was the purpose? Had their  
18 been a protest on the part of the growers?

19 A Yes, there had.

20 Q Okay. And what was the protest?

21 A They -- they wasn't interested in letting us,  
22 as myself and another person, to do soil testing on  
23 their land.

24 Q Okay. Was this a special situation outside of  
25 your normal regulatory activities?

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1 A Yes, I'd say so.

2 Q Okay. And the purpose of this meeting was to  
3 hear their concerns and try to reach a resolution;  
4 is that fair?

5 A I think that is.

6 Q Okay. I put in front of you a document which  
7 I've marked as Littlefield Exhibit 2, which is a  
8 memorandum dated May 18, 2005 from Mr. Parrish, I  
9 guess to the file, and we'll -- we'll refer to  
10 this -- here's another one, but -- and maybe you can  
11 use that to refresh your recollection of things that  
12 were discussed at the meeting. How long did the  
13 meeting take place?

14 A Hour-and-a-half maybe.

15 Q And --

16 A Approximately.

17 Q Was everybody courteous or were there raised  
18 invoices?

19 A No, everybody was courteous.

20 Q Okay. And the purpose of the sampling that  
21 was being addressed at that meeting was for the  
22 Attorney General's expert consultants in this case  
23 to obtain and analyze certain materials from farms  
24 of the Deselected growers; isn't that true?

25 A I -- I don't -- I can't say that for sure, I

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1 don't know. All I was told was I was given a list  
2 of growers to do some special testing.

3 Q Okay.

4 A And I don't know, you know, I can't read  
5 anybody else's mind about it.

6 Q Was it a lawyer that gave you those parameters  
7 to be tested, David Page?

8 A I believe it came from a lawyer. I'm not  
9 sure. It might have come from Dan, but I don't  
10 think it did. I think it came from attorneys.

11 Q Does it --

12 MR. NANCE: Here's the point where I'll  
13 object to anything told him by attorneys on the case  
14 as attorney-client privilege and work product.

15 MR. ELROD: Okay.

16 Q (By Mr. Elrod) Have you attended any meetings  
17 to find out about the meetings, have you attended  
18 any meetings with Mr. Page, Mr. Nance or any other  
19 lawyer working on this case? That's the question.

20 MR. NANCE: That's a yes or no question.  
21 Have you attended meetings with lawyers?

22 A Meeting.

23 MR. NANCE: You might add Mr. Hammonds and  
24 Ms. Stewart to that list.

25 Q (By Mr. Elrod) Sure.

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1 A Well, yeah, I -- I met with some.

2 Q Okay. Now, I'm not going to ask you about  
3 any -- did you meet with them to prepare for this  
4 deposition?

5 A Yes.

6 Q Okay. I don't want to know anything about  
7 that, okay? I don't think I want to know anything  
8 about that. Somebody else might, I don't. But the  
9 question on the table is, were there other meetings,  
10 besides getting prepared for this deposition, at  
11 which lawyers for the State of Oklahoma were  
12 present?

13 A Early on there was.

14 Q Okay. Early on being?

15 A When they first gave us a list of growers to  
16 go out and do some soil testing on.

17 Q Okay. And that would have been sometime  
18 shortly before May 3, 2005, shortly --

19 A I don't know the date.

20 Q -- I mean within weeks; is that true?

21 A Yes, it would be before this meeting date that  
22 we had.

23 Q All right. There was a planning meeting, is  
24 that fair, to obtain these soil samples?

25 A I'm thinking it was.

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1 Q All right.

2 MR. ELROD: Now, are you claiming privilege  
3 on that, Bob?

4 MR. NANCE: Yes.

5 Q (By Mr. Elrod) Okay.

6 A That's what I felt like it was.

7 Q Okay. I'm just trying to find out how many  
8 meetings there were with lawyers, without asking you  
9 what was said during those meetings, okay? Any  
10 other meetings with lawyers other than the ones we  
11 just got through talking about?

12 A No.

13 Q Now, you've already used the word special in  
14 regard to this proposed sampling, and I think we  
15 agreed that -- what are you smiling about?

16 A Nothing, nothing.

17 Q It's okay to smile.

18 A I thought maybe I shouldn't have said special.

19 Q No, it was the correct word. It was special,  
20 wasn't it? It was out of the ordinary?

21 A Yes, it was.

22 Q All right. And it was obviously being done in  
23 conjunction with the lawsuit that we're lawyering  
24 about here today; correct?

25 A I think so.

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1 Q All right. Now, back to this May 3, 2005  
2 meeting. Were there concerns about the constituents  
3 that were to be tested for?

4 A Concerns about what?

5 Q What constituents were going to be tested for?

6 A With me, there wasn't any talk about that,  
7 they was -- I was just to get the dirt.

8 Q Get the dirt. Okay. And it was just going to  
9 be dirt samples, not litter samples or water  
10 samples?

11 A No, it was going to be -- it was going to be  
12 litter, also.

13 Q Okay. What about water?

14 A Didn't mention water to me.

15 Q Now, there came a time in October of 2005, did  
16 there not, when administrative warrants were  
17 obtained from Judge Hainey to go do sampling on some  
18 of these growers of ours?

19 A I don't know who the warrants were from now.  
20 I do know that they -- they did have some.

21 Q To your knowledge, what happened between the  
22 meeting in May of 2005 and the warrants being issued  
23 in October of 2005 that required administrative  
24 warrants as opposed to simply an agreement that  
25 we're going to come do this? Why did you have to

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1 obtain the warrants?

2 A Well, I don't know why the warrants, myself, I  
3 wasn't involved in that part of it, but I went to  
4 the farms. The very first farm we went to did not  
5 want me to take soil tests on their farm.

6 Q Is that the Reeds?

7 A That was the Reeds. And we spoke for a few  
8 minutes, and I -- I left and --

9 Q And Mrs. Reed was there, but Mr. Reed was not?

10 A That's exactly right.

11 Q Did she appear to be a little concerned or  
12 frightened?

13 A Yes, she did.

14 Q Because all of a sudden people showed up with  
15 something called administrative warrants early in  
16 the morning on her farm?

17 A Well, it wasn't warrants at that time. That  
18 was just volunteer. There was no warrants.

19 Q Yeah, you're right. I'm sorry, I'm wrong.

20 A That was just volunteer.

21 Q Warrants were obtained as a result of  
22 non-cooperation by the growers?

23 A That's -- that's correct, I think.

24 Q Now -- you're correct. What do you recall her  
25 saying to you at that time?

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1 A Well, she told me that her husband wasn't  
2 there at the time, and she said, I don't want you to  
3 do anything, John, until he gets here. And then she  
4 asked questions about who the people were on the  
5 road and --

6 Q How many people --

7 A -- why we were there.

8 Q How many people -- excuse me, go ahead. How  
9 many people were there?

10 A There was three there when I went to her house  
11 to talk to her about it, there was three of us that  
12 went there.

13 Q You and who else?

14 A David Berry and Randy Thompson. They stayed  
15 in the truck, they didn't go up to the door with me.

16 Q How many vehicles were there?

17 A Well, just mine -- well --

18 Q I got the impression that somebody from the  
19 consulting firm of Camp, Dresser & McKee was also  
20 there?

21 A They had vehicles there, they were there, out  
22 in the road.

23 Q So from her perspective, if you looked out  
24 from her gate, and what would she have seen? She'd  
25 see your vehicle and you, and two other men in your

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1 vehicle; correct?

2 A Yeah, we drove up to her house. It's probably  
3 a hundred yards from the road.

4 Q And everybody else stayed away?

5 A And everybody else stayed on the county road.

6 Q And how many other elses were there?

7 A Four, three or four.

8 Q Three or four other people?

9 A Yes.

10 Q And how many vehicles were they in?

11 A I believe it was three.

12 Q And what time of the morning was it?

13 A I don't remember for sure, but I think around  
14 9:00, 8:00 or 9:00.

15 Q And the game plan was that you and Randy  
16 Thompson, and who was the other person?

17 A David Berry.

18 Q David Berry, would actually go onto the  
19 property and obtain the samples, and then you would  
20 come back and deliver the dirt and the litter  
21 samples to Camp, Dresser & McKee representatives;  
22 true?

23 A That's true.

24 Q And was lawyer David Page or any other lawyer  
25 hanging around with Camp, Dresser & McKee?

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1 A I don't remember -- I don't know if David  
2 Page -- I can't put a face to that name, so I  
3 don't --

4 Q What about just the notion of a lawyer, was  
5 there a lawyer there?

6 A You know, I don't know for sure. I don't know  
7 if those guys were attorneys or not. I don't know.

8 Q Did you have similar experiences at any other  
9 grower's property that day or on any other days,  
10 meaning that the same scenario played out?

11 A Well, the other places that we went to told us  
12 that they didn't want us to do soil testing on their  
13 land.

14 Q Now, in terms of your normal inspection  
15 activities, which you've testified sometimes will  
16 include soil tests, have you ever been told that by  
17 any grower before?

18 A No.

19 Q Okay. So would it be true that the growers  
20 understood that this was a "special situation"?

21 A Yes.

22 MR. NANCE: Object to the form, but you can  
23 answer.

24 A I already did. Yes.

25 Q (By Mr. Elrod) Okay.

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1 A I'm sorry.

2 MR. NANCE: That's all right.

3 Q (By Mr. Elrod) You don't do this for a  
4 living, do you?

5 A No, I don't. Thank God.

6 Q How many other growers did you have similar  
7 experiences with besides the Reeds?

8 A I don't remember the -- all exact numbers.  
9 There were six or eight of them that David and I --  
10 there were some in his area in Cherokee County that  
11 we visited with different days, not the same day,  
12 and it was before we went to Reeds' farm, and I went  
13 with him in his area to his farms, and he went to --  
14 with me to mine.

15 Q Had you ever done that before?

16 A No. Except we help one another, you know, we  
17 help one another sometimes soil sample or do a  
18 complaint or something together.

19 Q I think we've already discussed this, but  
20 you'll agree with me that the Acts under which you  
21 operate are all directed at the grower and not at  
22 the company integrators?

23 MR. NANCE: Object as calling for a legal  
24 conclusion.

25 Q (By Mr. Elrod) Unless -- unless the company

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1 integrator also happens to be a grower?

2 A Ask that again.

3 Q Your activities are directed at the growers  
4 not at the companies that contract --

5 A Yes, yes, I think so.

6 Q Okay. And you testified that you occasionally  
7 take soil samples. Could you give me a feel for  
8 what percentage of your samples show an STP over  
9 400?

10 A Except for the Eucha-Spavinaw watershed,  
11 and -- and then recently the Illinois watershed,  
12 it's 400 phosphorus level.

13 Q Right.

14 A And not many of those that I know of that I  
15 did the sampling that had over 400. That was  
16 usually on a complaint that I would do. We did  
17 random -- I mean not should tell, I don't know what  
18 I'm supposed to say, but we did random sampling one  
19 year, just picked out 25 growers and went and did  
20 their sampling.

21 Q Was that the event where about 15 percent of  
22 the samples were over 400?

23 A Yes, I think that's the same time. I'm not  
24 sure about that, but three of mine, I think three,  
25 the best of my memory is that there was three of

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1 mine that I picked that I knew was over 400, but I  
2 wanted to do a thorough sampling to see if it had  
3 come down, the phosphorus level, because I'd had one  
4 earlier. I wanted to see how fast it came down, and  
5 also to find out maybe if they were still putting  
6 poultry litter on.

7 Q What did you find out?

8 A I found out it was coming down, but it was  
9 still over 400. So three of those I knew going in  
10 that they were over 300 or 400 when I went in, and  
11 300, because there was a couple of them that were in  
12 the Eucha watershed.

13 Q Can you give me a quick feel for how much they  
14 had dropped?

15 A No, I can't because I can't remember exactly,  
16 but --

17 Q How many random samples did you take?

18 A We did 25 in each -- I think each grower did  
19 in his area, I know we 25 of them.

20 Q Twenty-five growers?

21 A Twenty-five different growers, yes.

22 Q Times whatever number of samples were  
23 necessary for each grower in order to get a good  
24 mix?

25 A Well, yes. We usually just picked one field

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1 in particular and we just sampled it, and to do a  
2 thorough sampling, you know, you need a lot of cores  
3 and mix them.

4 Q Sure.

5 A That's the way we --

6 Q What's your view on the appropriate depth for  
7 sampling?

8 A Well, OSU's protocol for us was six inches.

9 Q Uh-huh. Okay. My understanding of your  
10 testimony, I want you to correct me if I'm wrong,  
11 was that you did sampling randomly at 25 different  
12 farms, and I think your testimony was -- well, you  
13 tell me, how many of those farms had STPs over 400?

14 A I don't know exactly how many of those are  
15 mine. Seemed like -- you know, I don't -- I can't  
16 remember the number. That -- that number will be at  
17 the office, I'm sure, in some of the files, you  
18 know, if they're still in business. I can't  
19 remember. But that period, there may have been four  
20 or five, I don't know for sure.

21 Q Okay.

22 A But I do know that I picked, I think it was  
23 three that I knew that was over what their  
24 phosphorus level was supposed to be just to find out  
25 if they -- if it was going down.

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1 Q And over 400 means you can't apply, cannot  
2 apply; true?

3 A Outside the Eucha-Spavinaw watershed, yes,  
4 sir, or the nutrient limited watershed outside it.

5 Q What's the current number in the Illinois  
6 River basin?

7 A It's 300 now --

8 Q Just like Eucha?

9 A -- nutrient limit. That's right.

10 Q So your best recollection is out of the 25,  
11 there were three or four, is that what you said?

12 A Yeah, that's what I -- there was three -- at  
13 least three of them that I knew going in most likely  
14 would be over, because I just wanted to find out if  
15 they were going down. There might have been another  
16 one that was over 400, 300 or 400, I -- I don't  
17 remember.

18 Q Do either you or, I guess Randy Thompson would  
19 be in the Cherokee County?

20 A No, David -- David Berry.

21 Q David Berry, Cherokee County, have any  
22 inspection jurisdiction over nurseries?

23 A Do we have inspection jurisdiction?

24 Q Over nurseries?

25 A No, I don't.

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1 Q Okay. Let me hand you what I've marked as  
2 Littlefield 3, if I can find one for myself. What  
3 is this?

4 A Did you ask me something?

5 Q Yes. What is this?

6 A What is this?

7 Q Uh-huh.

8 A This was a letter that Dan sent to Jimmy  
9 Hollenbeck.

10 Q Is he related to Jason Hollenbeck, by any  
11 chance?

12 A Yes, this Jimmy here is his dad.

13 Q Okay. And for the record, tell us who Jason  
14 Hollenbeck is.

15 A Jason Hollenbeck was the OSU Extension  
16 director for Delaware County until the last six  
17 months or so.

18 Q What's he doing now, if you know?

19 A I don't know for sure. I know he still runs  
20 cattle.

21 Q Okay. Jason or Jimmy?

22 A Jason and Jimmy both, but Jason does.

23 Q So Jimmy is the dad and Jason is the son,  
24 Jason --

25 A That's right, and there's also a Jimmy, Jr.,

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1 there's another Jimmy.

2 Q Now, it is true that -- I assume this October  
3 10, 2002 letter would be one of many, this is just a  
4 sample of the typical letter that goes out?

5 A This was during the period of time when we  
6 took those random samples.

7 Q Okay. And the point is that the State can  
8 take samples through its regulatory authority any  
9 time it wants to under the Act; correct?

10 A Well, I don't know. You know, I can't address  
11 that for sure because I'm not legal minded, I'm not  
12 legal educated, but my thinking is that we can,  
13 especially if it's a complaint, I know that we can.

14 Q Does Jimmy Hollenbeck run -- does he have  
15 poultry?

16 A He has poultry and -- and cattle.

17 Q Just out of curiosity, where he is located out  
18 of Spavinaw, do you know?

19 A Yeah, he's --

20 Q Is he up top?

21 A Do what?

22 Q Is he up top? He's up above Lake Spavinaw?

23 A Well, he's -- yes, he's up above, I guess you  
24 would say.

25 Q Is he just off the road from Salina to the

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1 dam?

2 A No.

3 Q Okay.

4 A He's off the road between Spavinaw and Jay on  
5 Highway 20.

6 Q Okay. That's right where the watershed  
7 breaks, isn't it?

8 A Yes, sir, it is.

9 Q You go north to Grand and south to  
10 Eucha-Spavinaw; correct?

11 A Yes.

12 Q Which side is he on; both?

13 A Yes, he probably has some on both. I know he  
14 has some on Grand.

15 Q I've marked this as Littlefield 4. Can you  
16 tell us what this is, please?

17 A This is a -- a request from Dan that I do a  
18 soil and get a litter test from one of the growers.

19 Q Now, would this request have come to you  
20 because somebody had a complaint or is this standard  
21 operating procedure?

22 A That I don't know for sure. I don't know.

23 Q Here's what -- that's not very artfully asked.  
24 Is it typical that John Littlefield, on his own,  
25 decides he's going to go take soil samples and

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1 litter samples, or is it typical that Dan Parrish  
2 tells John Littlefield to go take soil samples,  
3 litter samples?

4 A Dan Parrish tells me.

5 Q Every time?

6 A No. There's been times that I have thought  
7 that it was necessary because of my question in my  
8 mind, and I've asked -- we've called Dan and see if  
9 that was proper.

10 Q Well, is it true, then, that in order for you  
11 to go take one soil or litter, that either you have  
12 to ask Dan, tell him you want to do it and he says,  
13 yeah, go do it, or he tells you to go do it?

14 A I think that's true.

15 Q Okay. You're not a free agent capable of  
16 doing whatever John Littlefield wants to do without  
17 Dan Parrish's blessing? And I don't mean that in a  
18 derogatory manner.

19 A No, I don't either, I do have a job.

20 Q And I just want to understand the system.

21 A Yes, I think that's -- that's proper.

22 Q Okay.

23 A I mean, I go do testing at his request.

24 Q Okay. Let me ask you what you know, if  
25 anything, about some State of Oklahoma related

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1 people who have asked for and received poultry  
2 litter for use -- for land application use through  
3 the BMPs program. Do you know an ODAFF employee  
4 named Gary Bledsoe?

5 A Yes, sir, I know him.

6 Q Wellston, Oklahoma?

7 A Yes, sir.

8 Q Where is Wellston?

9 A That's between Oklahoma City and Tulsa.

10 Q Okay. And were you aware that Mr. Bledsoe has  
11 requested, received and land applied chicken litter  
12 through the BMPs Transportation Program?

13 A Yes, sir.

14 Q He's discussed that with you or how did you  
15 know?

16 A No. I just -- I just heard him talking or  
17 telling someone, or he could have been telling me, I  
18 can't remember for sure.

19 Q What do you recall him saying about that?

20 A What was that?

21 Q What do you recall him saying about that?

22 A That he was going to or did apply some litter.

23 Q Do you know how much he applied?

24 A No, I do not.

25 Q Do you know a fellow named Mike Thralls, the

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1 director of the OCC?

2 A Yes, I do.

3 Q Okay. Were you aware that his father, Rex  
4 Thralls, requested, has received and land applied  
5 chicken litter through the BMPs program?

6 A I was not aware of that.

7 Q What about Mike Thralls himself, are you aware  
8 that Mr. Thralls has requested, received and land  
9 applied chicken litter through the BMPs program?

10 A I didn't know that.

11 Q Did you know he's applied or has applied?

12 A Yes, I knew that.

13 Q Do you know where his farm is located?

14 A No, I do not.

15 Q What about OSU Extension agent Marty,  
16 M-A-R-T-Y, Green of Muldrow, Oklahoma, do you know  
17 whether Marty -- I don't know whether Marty is a man  
18 or a woman, quite frankly.

19 A No, he's a man.

20 Q You know him then. Do you know that he's  
21 received, requested and received and land applied  
22 chicken litter through the BMPs program?

23 A Yes, sir.

24 Q How did you know that?

25 A I just heard him talking.

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1 Q What do you recall him saying about that?

2 A That he was putting litter on his farm.

3 Q Do you know how big a farm it is and how much  
4 litter?

5 A No, sir, I do not.

6 Q What about Marty Green's father, Jerry Green,  
7 also of Muldrow, Oklahoma, are you aware that he  
8 requested, received and land applied chicken litter  
9 through the BMPs program?

10 A No, I did not.

11 Q What about Oklahoma NRCS District  
12 Conservationist Anthony Lawrence of Checotah,  
13 Oklahoma, do you know that person?

14 A No, I do not.

15 Q What about OCC Commissioner Rick Jeans, do you  
16 know Mr. Jeans, J-E-A-N-S, of Blackwell, Oklahoma?

17 A No, sir.

18 Q And what about -- then you wouldn't know Rick  
19 Jeans' father, Don Jeans, also of Blackwell?

20 A No.

21 Q So you wouldn't know whether he's requested,  
22 received and land applied chicken litter through the  
23 BMPs program?

24 A No.

25 MR. ELROD: All right. We've got five

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1 minutes and it's time for another break, and I'm  
2 going to be through pretty shortly. Thank you.

3 VIDEOGRAPHER: We're now off the record.  
4 The time is 11:30 a.m.

5 (Following a brief recess at 11:26 a.m.,  
6 proceedings continued on the record at 11:36 a.m.)

7 VIDEOGRAPHER: We are back on the record.  
8 The time is 11:39 a.m.

9 Q (By Mr. Elrod) Where am I at, 5? I've marked  
10 as Littlefield Exhibit 5 that piece of paper. Would  
11 you tell us what this is, please? What is that, Mr.  
12 Littlefield? I mean, what's the form?

13 A This is an application, private annual report  
14 that the private applicators have to fill out and  
15 send in.

16 Q And this is a standardized form created by  
17 ODAFF for that purpose; is that true?

18 A Yes, sir.

19 Q Are you copied on these for the ones that are  
20 in your area?

21 A Am I what?

22 Q Are you copied on these for the ones that are  
23 in your area? Do they go directly to the State  
24 or do they --

25 A No, they go directly to the State. I'm sorry,

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1 I didn't understand.

2 Q Are you kept abreast of them, though, or do  
3 you ever see them other than at depositions?

4 A Yes.

5 Q Okay. So how do you -- do you get a copy from  
6 the State?

7 A No, I do not.

8 Q How do you happen to see these?

9 A They ask me for assistance a lot of times. We  
10 also have them available if they don't have them so  
11 that we can give them one, and at educational  
12 classes that I helped in, this is some of the things  
13 that we went over.

14 Q Littlefield 6 is what? What is that?

15 A Well, this is a letter that he gets -- anybody  
16 that applies for a license, a poultry application  
17 license gets.

18 Q Do you know of any situation where an  
19 applicant has been denied?

20 A I wouldn't know because all of them -- I don't  
21 have privy to all of them, but I don't know of any  
22 in my area.

23 Q But in order to receive an applicator's  
24 license, one has to make an application to the  
25 Oklahoma Department of Agriculture?

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1 A That's right.

2 Q And in consideration, the application is made  
3 at the Department of Agriculture, and then per this  
4 letter, this particular one was granted?

5 A That's right.

6 Q That's the way that system works?

7 A Yes, sir. It would also have nine hours,  
8 initial nine hour education on it if it hadn't  
9 been -- if it was somebody that was not a grower,  
10 because the applicators are required to have nine  
11 hours' education also, the initial nine hours. But  
12 if they're growers, they've already gotten it, and  
13 they have to just continue on.

14 Q Let me hand you what I've marked as  
15 Littlefield 7. Is this a copy of an animal waste  
16 management plan?

17 A Yes, sir.

18 Q Okay.

19 A Not a very good one.

20 Q Why is that?

21 A Well, it's not as complete as a lot of them  
22 are.

23 Q I've got a big stack of them here, but I don't  
24 want to encumber the records with others. But just  
25 as an example, there are others that --

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1 A Yes.

2 Q -- have a lot more information and a lot more  
3 pages; correct?

4 A Yes.

5 Q Did the Oklahoma Department of Agriculture  
6 create this form that's used for animal waste  
7 management plans?

8 A I don't have -- I don't know. I don't know  
9 whether they did or not.

10 Q The reason I ask that is they seem to be  
11 standardized, all the ones I'm looking at. Is that  
12 your view, that they're set up the same?

13 A Well, there's certain information that is  
14 supposed to be in them according to, I think our  
15 statutes, so those items is supposed to be --

16 Q For example, let me mark as 8 yet another one  
17 that seems to be more complete in the sense that  
18 it's thicker. The one I'm handing you --

19 A Yeah.

20 Q -- now is for a person named Jeff Andrews, and  
21 the previous one was an individual named Lyle  
22 Becker; correct?

23 A That's right.

24 Q You'll notice that the format --

25 A The same.

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1 Q -- and even the font or the typing is the same  
2 between the two?

3 A Yeah.

4 Q So once again, even though the plans  
5 themselves may have been created by different  
6 people, the format is created by the Oklahoma  
7 Department of Agriculture, isn't it?

8 A I don't -- I don't know that for sure. These  
9 come from the NRCS office, so I don't know that --

10 Q So it could be that the NRCS creates the form?  
11 That would be --

12 A I guess it could be, I don't know.

13 Q That would be more likely, I guess, wouldn't  
14 it?

15 A Yeah.

16 Q I'm interested in the first paragraph. It  
17 says, "This animal waste management plan includes  
18 the production, handling and distribution of animal  
19 waste in a manner that prevents or minimizes  
20 degradation of soil, water, air, plants and animal  
21 resources," do you see that language?

22 A Yes, I do.

23 Q Do you happen to personally agree with that  
24 notion?

25 A Well, I'm not technical enough to know for

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1 sure, but yes, I -- my personal opinion is that I  
2 thought that it -- it helps minimize the problems.

3 Q Okay. Let's see, am I at 9 now? I have a  
4 good memory, but it's a very short memory.

5 A Yeah, I've got that.

6 Q I'm handing you 9. What is this?

7 A This is an inspection checklist that they had  
8 back in the office, and what's attached to it is an  
9 inspection that I did on Mr. Morgan.

10 Q So is this the form that's used by you in  
11 doing your annual inspections?

12 A Yes, sir, it is.

13 Q And are you careful about following the  
14 checklist, as every good inspector should be?

15 A Yes, yes, I would try to.

16 Q Would it be typical that you would also do  
17 anything in addition to what's on the checklist on  
18 the front page?

19 A No, I don't think so.

20 Q 10? I've marked this document as Littlefield  
21 10. This is a letter dated February 9, 2004 to  
22 someone named Truman and Pat Bingham, B-I-N-G-H-A-M,  
23 of Jay, Oklahoma by the signature of Dan Parrish; is  
24 that true?

25 A Yes.

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1 Q And is this -- and you're copied; right?

2 A Yes.

3 Q Is this typical of the format of the letter  
4 approving expansion of poultry operations under the  
5 Oklahoma law and regs?

6 A I think this is an increase.

7 Q Right.

8 A This is where there was a 10 percent increase  
9 in numbers. They changed integrators.

10 Q Right.

11 A Yes, I think this is --

12 Q This is typical of the format?

13 A I think so.

14 Q This particular one says, please be advised  
15 that the Oklahoma Department of Agriculture Food and  
16 Forestry Water Quality Services received a  
17 registration application of your facility with a  
18 total of two houses with a total capacity of 28,000  
19 layers. This application has been reviewed by the  
20 ODAFF, WQS staff, and it is officially approved as  
21 it meets all the requirements entitled in Oklahoma  
22 Statutes Section 10-9.3 of the Oklahoma Registered  
23 Poultry Feeding Operations Act, Dan Parrish. Do you  
24 know what the review process is at ODAFF in Oklahoma  
25 City for either new house construction or

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1 expansion --

2 A Or increases, no, I do not.

3 Q But will you agree with me that it's clear  
4 that there is a "review" by someone?

5 A Someone, yeah.

6 Q It says that, doesn't it?

7 A Yeah, someone.

8 MR. ELROD: I'm going to give you back  
9 seven minutes. It's seven until 12. I'm through,  
10 and I think what we'd like to do is take a lunch,  
11 and then if other people have questions -- I think  
12 there are going to be some questions, are there not?

13 MR. McDANIEL: Uh-huh.

14 MR. ELROD: Okay. Mr. Littlefield, it's  
15 been a pleasure to spend time with you and I  
16 appreciate your being patient with me.

17 A Thank you.

18 MR. ELROD: Thank you.

19 VIDEOGRAPHER: We are now off the record.  
20 The time is 11:53 a.m.

21 (Following a lunch recess at 11:50 a.m.,  
22 proceedings continued on the record at 12:59 p.m.)

23 VIDEOGRAPHER: We are back on the record.  
24 The time is 1:03 p.m.

25 DIRECT EXAMINATION

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1 BY MR. McDANIEL:

2 Q Good afternoon, Mr. Littlefield.

3 A Good afternoon.

4 Q I'm Scott McDaniel, and I'm an attorney. I  
5 represent Peterson Farms --

6 A Okay.

7 Q -- in the lawsuit. Just as a reminder, I'm  
8 sure it's probably on your mind, but you're still  
9 under oath --

10 A Yes.

11 Q -- in the deposition. Okay. In the -- this  
12 morning in your discussions with Mr. Elrod, did you  
13 have an opportunity, in answering his questions, to  
14 explain all the things that you do on your job as  
15 far as inspector for the Oklahoma Department of  
16 Agriculture?

17 A Yeah, technical assistance and soil and litter  
18 sampling and complaint investigations.

19 Q Tell me what technical assistance means.

20 A It may be something in our waste management  
21 plan that they don't understand exactly, you know,  
22 or the application rate, or -- or they've got a  
23 letter from the office that they don't understand  
24 and why, and if I don't, well, I call and find out,  
25 but --

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1 Q So is that --

2 A Educational, about their educational hours,  
3 you know, where schools is coming up and being  
4 behind or not behind.

5 Q So are you kind of a conduit for information  
6 to the growers, is that what you're saying?

7 A Yes, I am.

8 Q All right. So if an Oklahoma registered  
9 poultry grower had some question concerning  
10 confusion about his or her animal waste management  
11 plan, they might call you and you would have a  
12 discussion with them about that, is that what you're  
13 telling me?

14 A Yes, in some cases I've done that, yes.

15 Q Can you think of any examples of types of  
16 questions that have come up from growers that --  
17 where they've needed some technical assistance like  
18 that?

19 A Application rates that they can spread.  
20 Sometimes they -- they wonder if it's -- their soil  
21 tests tests 250 and they're in a 400 phosphorus  
22 level area, like Grand is, can I put litter on it --

23 Q Uh-huh.

24 A -- and this type of questions.

25 Q So in answering a question like the example

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1 you gave, what do you refer to to try to assist the  
2 grower with the answer? Do you look at their animal  
3 waste management plan or is there something else  
4 that you use as a tool?

5 A Well, yes, if they have their waste management  
6 plan available I do, and, of course, their soil  
7 tests and litter tests so that I will know, and I  
8 have copies of the 590 Rule. And that's what I go  
9 by, that's what's in their farm plan.

10 Q Okay. So as far as the Oklahoma's laws that  
11 relate to management of poultry litter, you're the  
12 man on the ground that's enforcing those laws out in  
13 the watersheds; is that a correct statement?

14 A I -- I think so.

15 Q Okay. Well, that's what I thought, too. I  
16 just wanted to make sure you saw it the same way I  
17 did. Now, the Exhibit No. 1 that was given to you,  
18 which was the stapled set of the statutes?

19 A Yeah.

20 Q I want to look at some of the language in that  
21 statute with you. Let's flip over to Section  
22 10-9.7, the section on waste management practices.  
23 Have you found the beginning of that section?

24 A Yes.

25 Q Are you with me? All right. If you'd go to

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1 the next page of the exhibit under Section B, and it  
2 says, the criteria for best management practices, do  
3 you see that section?

4 A Yes, I do.

5 Q And then subsection one, it says, there shall  
6 be no discharge of poultry waste to the waters of  
7 the state. You're -- I mean, I'm sure you're --

8 A Yes.

9 Q -- well familiar with that statement in the  
10 law; right?

11 A Yes.

12 Q Tell me, sir, what is your understanding of  
13 what poultry waste means in that sentence? Are we  
14 talking about poultry litter?

15 MR. NANCE: Object that it calls for a  
16 legal conclusion. You can answer.

17 A Just from the top of my head, just my -- what  
18 I'm, you know, think in terms is that it's poultry  
19 waste, that's what I -- I think it could be  
20 something else after I sit here and think about it a  
21 little bit, but poultry waste is what I first --

22 Q (By Mr. McDaniel) Well, a lot of -- when --  
23 for instance, when a broiler house is cleaned out?

24 A Yes.

25 Q That material, what do you call that material



1 that comes out of a broiler house? Do you call it  
2 litter?

3 A I call it litter.

4 Q Okay. Is -- to you, is litter also, is that  
5 poultry waste?

6 A Yeah, I guess it -- to me it is.

7 Q Okay. And most, in your experience, poultry  
8 growers talk about poultry litter, they don't  
9 necessarily use words like poultry waste, do they?

10 A That's exactly right. They're opposed mostly  
11 to do that.

12 Q Well, that's what I'm trying to get you and I  
13 using the same kind of language so I don't create --

14 A Right.

15 Q -- any confusion. Okay. Now, the question of  
16 whether any particular poultry operation is causing  
17 pollution of Oklahoma's waters, that is something  
18 within your jurisdiction as the inspector; is that  
19 correct?

20 A Yes, I think so.

21 Q Okay. This same section that we're looking at  
22 where it makes reference to best management  
23 practices, and I'm not asking for you to give one of  
24 your seminars, but can you tell us quickly what best  
25 management practices are? What is a best management

1 practice?

2 A Well, what I think in terms of best management  
3 practices is that the way they clean out their  
4 houses, being particular about how they get it on  
5 the trucks and how they get it on their spreaders,  
6 how they're getting it from their house to the  
7 fields. Also, their -- the waters of the state,  
8 that they stay back according to the guidelines set  
9 in their -- in the 590 Rule from intermittent  
10 streams and lakes and ponds and swales. And making  
11 sure that, you know, that when they spread their  
12 litter, you know, that it's -- the slope area is not  
13 too great, that there's some forage on the ground  
14 and it's not just like the top of this table, and  
15 these are the type of things that I look for and  
16 I -- I speak to them about.

17 Q Okay. Who decides what best management  
18 practices any particular poultry grower must follow?

19 A What's that again?

20 Q Who makes the decision --

21 A What really is best management practices?

22 Q Okay, sure.

23 A I'll help you --

24 Q I like your question better than mine. We'll  
25 start with your question and see if we can get mine

1 answered.

2 A I need to be quiet.

3 Q No, that's fine.

4 A I think they do, with my assistance or maybe  
5 Dan's, you know, if they call the office.

6 Q Go ahead.

7 A Based upon the Rule 590.

8 Q 590 has a lot of specific best management  
9 practices spelled right out in it, doesn't it?

10 A I think it does, yes.

11 Q Well, we'll look at it in a minute and you can  
12 show me if you want.

13 A Yeah.

14 Q Okay. Anything else on that?

15 A No, I think that's --

16 Q But it is a requirement of Oklahoma law that  
17 each registered poultry operation utilize best  
18 management practices --

19 A Yes.

20 Q -- true? And the objective of those  
21 practices, sir, isn't it to protect the natural  
22 resources of the State of Oklahoma from  
23 contamination?

24 A That's what I think. Help protect, I could  
25 say.

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1 Q Okay. Now, but best management practices can  
2 vary from farm to farm or pasture to pasture; is  
3 that right?

4 A Yes, it can.

5 Q In other words, there's some practices that  
6 may make sense and work at farm A that may have no  
7 applicability to farm B?

8 A I think so.

9 Q Because of streams or slope or soil or a lot  
10 of different things that can vary?

11 A I think so.

12 Q All right. So as far as a poultry grower  
13 knowing what best management practices to follow, if  
14 I understand, and if they want to comply with the  
15 law, then they have to follow best management  
16 practices that are set out in their animal waste  
17 management plan; right?

18 A Uh-huh.

19 Q And would you agree that those best management  
20 practices really come from the Code 590 and are made  
21 part of their farm specific animal waste management  
22 plan?

23 A Well, I don't know where they came from. I  
24 would -- whoever wrote this law up I think could  
25 tell you where -- where they got their information

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1 to write it, but it follows the 590 Rule pretty  
2 much. It does to me, that's the way I interpret it.

3 Q Okay. Let me ask this to you in a different  
4 way then. Let's assume I'm -- I'm a new registered  
5 poultry grower in Oklahoma and I want to know what  
6 best management practices to follow for my property.  
7 What do I need to look at, what do I need to do to  
8 make sure that I follow those practices and that I'm  
9 in compliance with state law, what do I do?

10 A I think you're supposed to use his waste  
11 management plan, the animal waste management plan.

12 Q Okay. Now, if I'm -- if I'm a new grower and  
13 I've applied for a plan, now -- let me step out a  
14 second. My understanding is sometimes it can take a  
15 long time to get one of these plans written?

16 A Sometimes that's right.

17 Q Whether it's a backlog or manpower or  
18 whatever?

19 A Whatever, yeah.

20 Q So let's say I get -- let's say I get my  
21 certificate from ODAFF today. I'm -- legally, I can  
22 operate, and I make my application for a plan. If I  
23 have a letter from Oklahoma NRCS saying that I've  
24 applied, then ODAFF is satisfied for now; correct?

25 A That's true.

1 Q All right. So let's say now I have -- I'm  
2 doing a clean out and I have some litter, I have  
3 some pasture, I want to put it down, how do I know  
4 what to do to stay legal if I don't have that plan  
5 yet? Can I call you or what should I do?

6 A If I have an opportunity to go to the farm  
7 when there's a new grower that comes in and I know  
8 about it, I usually sit down with them and tell them  
9 that before they get rid of any litter, they've got  
10 to have a litter analysis back, a sample taken.  
11 They most likely have not had the nine hour  
12 education classes yet, and so I basically tell them  
13 the rules and regulations, you might say, in -- not  
14 in complete detail, but what they've got to know  
15 early.

16 Q Okay.

17 A Such as if they're taking a cake-out and they  
18 want to get rid of it, they can't just give it to  
19 you, they've got to have an analysis back in time so  
20 that they can give you a copy of the analysis, and  
21 these are the type of things that I sit down and  
22 visit with them about and tell them. At the same  
23 time, if they're thinking about spreading it on  
24 their own land, I tell them then -- that gives me an  
25 opportune time to tell them that they have to have a

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1 soil test and the soil test has to be a certain  
2 thing, and there are many times, especially some of  
3 the Hmong and Laotian people didn't understand, and  
4 then lots of people, not just them, can't read the  
5 soil tests and know for sure, didn't know how to  
6 take a sample. I have volunteered to help them  
7 before. I have told them -- drew out kind of a  
8 diagram from the protocol that OSU lays out to show  
9 them how to get so many different cores and mix them  
10 together, where to take it. And then if they have  
11 any questions when they get them back, whether they  
12 can apply or not apply or whatever, to contact me.

13 Q Okay.

14 A I can't do that if I don't know ahead of time  
15 that a new grower has -- has bought somebody out or  
16 something. Now, if he's building a house I do, if  
17 it's new houses, I'll know that ahead of time, but  
18 sometimes they just sell and I won't know it right  
19 away. And -- but when I do, and in my particular  
20 area, I like -- I kind of make it a habit and it's  
21 just extra work for me, but if you're thinking about  
22 buying a farm, I've always told the farmers that  
23 when you get ready to sell, if you would, you're  
24 going to sell it to Bob, call me and I'll help Bob  
25 fill out his paperwork. That way I know up front

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1 that he's trying to buy your place and he's sending  
2 in an application, and I'll know ahead of time of  
3 what to tell him in regards to best management.

4 Q Okay. Thank you for that explanation. So --  
5 all right. Again, the example, I'm the new grower,  
6 I do not have my state approved plan back yet, but  
7 because you told me I had to sample my litter and I  
8 had to sample my fields, I've done that. Now I've  
9 got those analyses. With those, you can sit down  
10 with me at my kitchen table and help me. Let's say  
11 I'm getting ready to do a clean out next month and I  
12 want to put it on my land, you can help me with  
13 those or figure out what I can apply using the 590  
14 or what?

15 A Yes, I think I can.

16 Q Okay.

17 A You know, according to that rule.

18 Q Okay. Well, what -- the question I'm coming  
19 back to is if I'm that farmer and I find myself in  
20 that position, I assume that comes up, you have --

21 A Yes.

22 Q -- new farmers don't have plans. If they want  
23 to comply with the law --

24 A Yes.

25 Q -- they want to be legal, they don't want to



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1 cause pollution --

2 A That's right.

3 Q -- they've got to know what to do?

4 A That's true.

5 Q So my question is, how does that farmer stay  
6 legal? What does he do to stay legal? And you've  
7 explained about taking the samples, so the next step  
8 is application rate and location, how does he get  
9 that information?

10 A There's two or three ways. One way is me, as  
11 I said earlier, I could tell him, and I would go  
12 back and help him so that he would know, but the  
13 person that applies the litter has to have license.

14 Q Okay.

15 A So the spreader operator comes in. Supposedly  
16 he knows the rules, so he can get -- he can help the  
17 grower in some parts of the best management rules.

18 Q Do those commercial operators, do you ever get  
19 requests for technical assistance from them, as  
20 well?

21 A Yes, I do. More so now than I used to.

22 Q What's a -- what are the typical reasons they  
23 would call you?

24 A How much slope, John, can I get? How much  
25 litter can I put on certain land with slope? How

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1 close -- how close can I get to the creek or the  
2 road or those kind of questions.

3 Q Is the NRCS Code 590, is that the Bible you  
4 look back to that --

5 A That's the Bible I look to, it is.

6 Q Okay. All right.

7 A Other than -- I might say, other than some  
8 special proposals or something that maybe our office  
9 has made, you know, we suggest, you know, that you  
10 don't spread within 300 feet of something, whereas  
11 the 590 Rule may say a hundred. I'm just using that  
12 for an example. Then I have had them to ask me,  
13 well, what's the law.

14 Q Uh-huh.

15 A Well, and then I -- I refer to the 590 Rule.

16 Q Those special recommendations you mentioned  
17 just a moment ago?

18 A Uh-huh.

19 Q Are those farm specific or would they apply to  
20 a county or a watershed? I've not heard that, so  
21 help me understand what those are.

22 A Now, what's that?

23 Q You made an example that ODAFF may request  
24 that someone not apply within 500 feet instead of  
25 300 feet. Is that a farm specific recommendation

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1 that might be in a plan?

2 A No, no, I don't think it's a farm, it's not --  
3 it's not just for you or just for him. Those are  
4 just -- we just highly recommend. You know, I do  
5 that a lot of times, even on my own. You know, I'd  
6 say, well, your soil test is 375, and 400 is the  
7 limit. I think I would look for another piece of  
8 land to put litter on. I don't think I'd put litter  
9 on there. That's just a recommendation. You know,  
10 he can, because he's under 400, according to the  
11 law.

12 Q Okay.

13 A But it's just -- and I feel like -- I don't  
14 know that, you'd have to ask Dan, and maybe he's  
15 already answered it, but I feel like that that's  
16 sometimes our case, maybe it's not, I don't know for  
17 sure, I can't talk -- speak for him, but I looked at  
18 it as -- and I tell them, you know, we recommend  
19 that you don't get within 300 feet here, and they'll  
20 say, okay, fine. If somebody -- and some of them do  
21 that's been -- well, what's the law, well, then I  
22 refer to their plan, the farm plan, if they have  
23 one, or 590 Rule is what I go by.

24 Q Again, from the perspective of the person  
25 who's putting poultry litter on the ground.

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1 A Uh-huh.

2 Q Would you agree that the animal waste  
3 management plan is the tool through which the State  
4 of Oklahoma regulates that conduct?

5 A (Witness nods head up and down.) I would  
6 judge it that way. That's just my opinion.

7 Q Now, we talked a lot about the Code 590. Let  
8 me hand it out here so we all know that we're  
9 talking about the same thing and I can ask questions  
10 about it. Are we at 10 or 11?

11 COURT REPORTER: 11.

12 Q (By Mr. McDaniel) Okay, sir. Let me hand you  
13 what I've marked as Exhibit 11, and tell me if you  
14 agree that's NRCS Code 590? Okay. I think I've got  
15 another one. I'm just trying to make sure that down  
16 there gets one of them. Did you answer my question  
17 while I was shuffling papers?

18 A No, I didn't. I didn't even --

19 Q Okay.

20 A -- hear it, I guess, or I was thinking about  
21 something else.

22 Q The question is, do you agree that this is the  
23 Natural Resource -- Natural Resource Conservation  
24 Service --

25 A Yeah, I think.

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1 Q -- management?

2 A This is probably in detail, but I think it is.

3 Q Okay. The Code -- what we've called the Code  
4 590?

5 A Yes, that's --

6 Q And this -- to your knowledge, is this  
7 something that's written and put out by the Natural  
8 Resources Conservation Service, a division of the  
9 United States Department of Agriculture?

10 A Yeah, to my -- the best of my knowledge.

11 Q Okay. Is it your -- I gather from everything  
12 you've told me you're pretty familiar with this.  
13 I'm not going to ask you if you've memorized it, but  
14 you use it in your job?

15 A Oh, I use it, yes.

16 Q And on the first page of this Code 590, it has  
17 a little paragraph there and it says, purposes, do  
18 you see that on the front page?

19 A Oh, yeah.

20 Q And the third bullet point under that says, to  
21 minimize agricultural non-point source pollution of  
22 surface and groundwater resources. Is it also your  
23 understanding, Mr. Littlefield, that that is one of  
24 the purposes of the Code 590 is to manage --

25 A That's my personal opinion, yes.

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1 Q Okay. You're -- you're doing a great job, but  
2 you're answering a little bit before I get done with  
3 my --

4 A I'm sorry.

5 Q -- end of the question, so --

6 MR. ELROD: He just did it again.

7 Q (By Mr. Elrod) If you say yes, I may change  
8 the question. So we just need -- particularly for  
9 our court reporter.

10 A Okay. I'm sorry.

11 Q Getting two voices is hard for her. I  
12 understand you, but the hard part is we have to talk  
13 so it can be read on paper and make sense of it.

14 Okay. So the question I was asking you, that third  
15 bullet point, that you agree, sir, that the Code  
16 590, one of its purposes is the control of non-point  
17 source pollution to surface and groundwater  
18 resources, do you agree with that?

19 A Yes.

20 Q Okay. And isn't it true that the Title 2, the  
21 statutes for animal waste management plan,  
22 specifically requires that those plans use the 590  
23 Code?

24 A Yeah.

25 Q Okay. Now, let's look at this 590 Code,

1 Exhibit 11. And again, on the first page, do you  
2 see that big header that says criteria down there in  
3 the lower --

4 A Yes, I do.

5 Q And it says, general criteria applicable to  
6 all purposes, and then it says, plans for nutrient  
7 management shall comply with all applicable federal,  
8 state and local laws and regulations. Did I read  
9 that correctly?

10 A I think so.

11 Q Okay. So I know this sounds like we're  
12 talking in a circle, but the State statute says  
13 you've got to follow Code 590. Code 590 says, any  
14 nutrient management plans written under this code  
15 have to comply with all state and federal laws.

16 A (Witness nods head up and down.)

17 Q Kind of made a big circle, do you agree with  
18 that?

19 A Uh-huh.

20 Q Was that a yes?

21 A Yes.

22 Q I guess you work with the ODAFF's regulations  
23 for poultry operations quite a bit, too, don't you?

24 A Yes.

25 Q This would be 12. Let me hand you what I've

1 marked as Exhibit 12, and I've pulled that down off  
2 of ODAFF's web page. Tell me if you believe that is  
3 an accurate collection of the regulations that  
4 relate to registered poultry feeding operations and  
5 management of poultry litter?

6 A Yes, I believe it is.

7 Q Okay. The first thing I want to ask you  
8 about, Mr. Littlefield, is actually on the first  
9 page of that exhibit, and it's under regulation  
10 35:17-5.2, the definition section. And under the  
11 definition of an animal waste management plan, it  
12 says it means a written plan that includes a  
13 combination of conservation and management practices  
14 designed to protect the natural resources of the  
15 State as required by the State Department of  
16 Agriculture pursuant to the provisions of, and it  
17 cites the statute. So I assume that you would agree  
18 that an animal waste management plan is designed to  
19 protect the natural resources of the State of  
20 Oklahoma, do you agree with that?

21 A Yes.

22 Q Okay. And is part of your job enforcing the  
23 requirements of animal waste management plans?

24 A Yes, I think so.

25 Q So from the statutes through the regulations



1 to you in the field, you have the power, under  
2 statute, that you can act if a person out there is  
3 violating an animal waste management plan?

4 A Well, what I do is report it.

5 Q Okay. Good point. It's not like you put  
6 cuffs on them and haul them to jail?

7 A Right.

8 Q You're an investigator, you're an inspector?

9 A Yes.

10 Q Okay. So in essence, you're like the eyes and  
11 ears of the State out there, but you're not a  
12 policeman?

13 A I would say that's right.

14 Q All right. Because the question of what to do  
15 about that observation you make is something that is  
16 handled within the Department of Agriculture by  
17 other people; is that true?

18 A That's true.

19 Q Whether it's lawyers or the ag board or Mr.  
20 Parrish, that's out of your hands?

21 A That's right.

22 Q All right. That's fair. I don't want to  
23 mischaracterize it, but it is part of your job to at  
24 least make observations in the field. If you  
25 believe someone is violating an animal waste

1 management plan, to report that fact to Oklahoma  
2 City or your superiors?

3 A That's true.

4 Q Okay. All right. Now, let me ask you this  
5 question, sir, because I'm trying to understand this  
6 conceptually or see if you and I understand this the  
7 same. The regulations that say that these animal  
8 waste management plans are designed to protect the  
9 natural resources of the State of Oklahoma, Mr.  
10 Littlefield, would you agree that if a land  
11 applicator of poultry litter follows his waste  
12 management plans, it will protect the natural  
13 resources of the State as required by the statute?

14 A Re -- restate that again.

15 Q The regulation, written based upon the  
16 statute, states that animal waste management plans  
17 are designed to protect the natural resources of the  
18 State of Oklahoma, and I think we -- you agreed that  
19 you accept that?

20 A Yes.

21 Q All right. Then if a land applicator of  
22 poultry litter follows his animal waste management  
23 plan, then that will protect the natural resources  
24 of the State of Oklahoma; do you agree with that  
25 statement?

1 A I wouldn't say that that protects. I think  
2 that is a source is designed to protect. I -- I  
3 like the wording designed. I think that yes, it  
4 will help, but I don't think it's the whole -- the  
5 whole answer.

6 Q If you -- the reason I'm using the word land  
7 applicators is because I understand that a lot of  
8 people put litter down other than poultry growers?

9 A Yes, that's true.

10 Q So that's why I use the word land applicator.  
11 If -- if -- what else is there for a land applicator  
12 to use to guide his conduct in managing litter  
13 besides the animal waste management plan?

14 A That's -- that's primarily it other than  
15 speaking to somebody personally.

16 Q Well, if I have a written animal waste  
17 management plan that specifies what can be done in  
18 field two at Farmer Jones' place, I should be able  
19 to read that plan and follow that plan if I'm an  
20 applicator; correct?

21 A I think so.

22 Q In other words, I shouldn't have to call you  
23 every time?

24 A That's true.

25 Q Okay. So I want to come back to this prior

1 question, and I do understand what you said, sir,  
2 that you're not -- but if you say that following an  
3 animal waste management plan is not all there is to  
4 protecting the natural resources of the State, I  
5 don't understand what else there is unless you can  
6 tell me.

7 A I guess I was confused about it, you know, and  
8 maybe I still am, I don't know, but I think that the  
9 animal waste management plan is designed to protect  
10 just, as it says here, the natural resources. So if  
11 they follow that, and correctly, it would -- it  
12 should protect the natural resources.

13 Q Okay. Thank you. Now I understand what  
14 you're saying. As the compliance inspector for the  
15 State of Oklahoma, is it your view that if a poultry  
16 applicator follows the animal waste management plan  
17 related to the application site, that that person is  
18 complying with Oklahoma law?

19 A Yes.

20 Q Okay. Now, the people who write these animal  
21 waste management plans, they also have to be  
22 approved in some fashion by the Department of  
23 Agriculture or ODAFF?

24 A Yes, that's in the State law.

25 Q Okay. In other words, you just can't get --

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1 some yocal can't write them, you have to be trained?

2 A Yes, it has to be someone that's been approved  
3 by the Department of Agriculture.

4 Q Okay. And you spoke with Mr. Elrod this  
5 morning. There was some discussion about some of  
6 the writers working in the county conservation  
7 offices; is that true, some of the plan writers?

8 A Uh-huh.

9 Q Is that a yes, sir? You said uh-huh.

10 A Well, I know, but what's the question again?

11 Q Are some of the plan writers, do they work in  
12 the county conservation?

13 A Yes.

14 Q District conservation office?

15 A Yes, they do.

16 Q All right. You mentioned this morning that  
17 there were maybe a couple of people who have, at one  
18 time or another, worked for ODAFF under contract  
19 writing plans? You mentioned a Mr. Abernathy, and  
20 there was another name I don't recall.

21 A Yes.

22 Q All right. So those people are actually  
23 working for ODAFF writing plans, to your  
24 understanding?

25 A You know, I don't know their arrangement, but

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1 I think it's -- I've been told that they work under  
2 a contract basis --

3 Q Okay.

4 A -- for ODAFF.

5 Q So if I'm a poultry grower and I need a plan,  
6 it could be that I could get a plan written by an  
7 NRCS plan writer, it could be that I might get  
8 someone who is under contract with ODAFF that might  
9 write my plan; is that --

10 A That's true.

11 Q Okay. And when someone -- these plan writers,  
12 do they come out and look at the farm in putting the  
13 plan together?

14 A I'm not there when they write the plan, so I  
15 really couldn't tell you.

16 Q Okay. So you don't know what the process is  
17 for putting together one of the plans?

18 A No.

19 Q Okay. Fair enough. As John said, you just  
20 saved yourself some time. But you know how to read  
21 them?

22 A Yes.

23 Q And you know how to, shall I say, apply them  
24 to the farm?

25 A Yes, sir.

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1 Q Okay. Let's -- I want to ask you a question,  
2 a couple of more questions about the Code 590. Turn  
3 back in the document, sir, until you get to Table 9,  
4 and I think it's like third from the end of the  
5 document.

6 A Yes.

7 Q You're familiar with Table 9; right?

8 A Yes.

9 Q Tell me what Table 9 is, how one uses it and  
10 what its purpose is.

11 A If you're not in the Spavinaw-Eucha watershed  
12 area, it's -- it's designed to give you a rate of  
13 application, an amount that you can put on your  
14 land, depending on your soil test and the phosphorus  
15 that's in your litter test.

16 Q I have -- you've heard the expression a  
17 phosphorus index?

18 A Uh-huh.

19 Q Would it be fair to call this Oklahoma's  
20 phosphorus index?

21 A I -- I think it would be, but that's just my  
22 opinion, I don't know.

23 Q Now, this Table 9, it says, annual waste  
24 application rates for nutrient limited watershed?

25 A Yes.

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1 Q You know what we're here about today is the  
2 Illinois River watershed?

3 A Yes.

4 Q Is that -- is the Illinois River watershed in  
5 Oklahoma, is it a nutrient limited watershed?

6 A Yes, it is.

7 Q So as we sit here today, the maximum soil test  
8 phosphorus -- or let me rephrase -- I want to  
9 rephrase this. The cutoff soil test phosphorus for  
10 land applying poultry litter is 300; is that true?

11 A Yes.

12 Q And up until sometime in 2006, was the number  
13 400?

14 A Yes.

15 Q Okay. All right. So Table 9, if we're laying  
16 and applying poultry litter today in the Illinois  
17 River watershed, Table 9 would apply to the Illinois  
18 River watershed?

19 A Yes, sir.

20 Q Okay. Now, if I read this correctly, it is  
21 possible that if the soil test phosphorus is 121 --  
22 between 121 and 300, I could apply poultry litter at  
23 a half rate, depending on the slope; is that true?

24 A That's true.

25 Q Now, if you flip to the next page where it



1 defines half rate, do you see that about a third of  
2 the way down?

3 A Yes.

4 Q And a half rate for phosphorus would be a  
5 hundred pounds of P205 per acre when surface  
6 applied; correct?

7 A That's correct.

8 Q All right. Yeah, I don't know that -- well,  
9 do you know if in this area of the country, out in  
10 the Illinois River watershed, that a soil test of  
11 phosphorus of between 121 and 300 would be  
12 sufficient amount of phosphorus of sustaining grass  
13 and forage, enough phosphorus in the soil for grass  
14 and forage?

15 A Would you ask that again?

16 Q All right. Maybe I should have asked that a  
17 better way. Do you know, sir, if you're growing  
18 Bermuda and fescue, and if your existing soil test  
19 phosphorus is in that 121 to 300 range, is that  
20 sufficient phosphorus to support those grasses  
21 without adding any phosphorus to the soil?

22 A Well, I don't know, I'm not -- that's not  
23 sign -- you know, I couldn't answer that, I don't  
24 think.

25 Q You're not comfortable answering that?

1 A According to the law, yes, he can apply  
2 litter, but whether the grass -- that that's  
3 adequate or not for the grass to grow, I don't know.

4 Q Okay.

5 MR. McDANIEL: All right. Let's take our  
6 tape change break right there, and if you need to  
7 step down the hall or whatever, please help  
8 yourself.

9 VIDEOGRAPHER: We are now off the record.  
10 The time is 1:45 p.m.

11 (Following an off the record discussion,  
12 proceedings continued on the record.)

13 VIDEOGRAPHER: We are back on the record.  
14 The time is 1:46 p.m.

15 Q (By Mr. McDaniel) Sir, a couple of additional  
16 questions out of the statutes, and that's Exhibit 1,  
17 and it's section 10-9.7 again, the best management  
18 practices section. And if you get back in there to  
19 section C --

20 A 10-7?

21 Q 9.7 -- 10-9.7, subsection C -- 6C, and there's  
22 a statement that says, poultry waste shall only be  
23 applied to suitable land at appropriate times and  
24 rates. And it says, discharge or runoff of waste  
25 from application site is prohibited. Are you

1 familiar with that requirement of Oklahoma law that  
2 there shall be no discharge or runoff of poultry --  
3 of waste?

4 A Okay. That's 6C; is --

5 Q Yes.

6 A -- that correct?

7 Q Yes, sir.

8 A Yes.

9 Q Okay. How does an animal waste management  
10 plan prevent error from a discharge of poultry  
11 waste? How does an animal waste management plan  
12 work to prevent the discharge of poultry waste, do  
13 you know?

14 A No.

15 Q Do you know how an animal waste management  
16 plan prevents runoff of poultry waste?

17 A No. But if they follow the plan explicitly,  
18 it should.

19 Q There shouldn't be any discharge, there  
20 shouldn't be any runoff; agreed?

21 A Yes, sir.

22 Q Okay. So if I'm the land applicator, I should  
23 be able to take some comfort in following that plan?

24 A I think so.

25 Q Okay. You're not -- you're not going to show

1 up at my door with a big flashlight in your hand and  
2 con me out on the front lawn or anything like that,  
3 you don't do that anyway, do you?

4 A No.

5 Q That's good. Now, the Oklahoma statutes and  
6 regulations that relate to litter management, they  
7 don't require a land applicator to go out and test  
8 surface water running across their land, does it?

9 A Require the -- the applicator?

10 Q Yes, sir.

11 A No, they don't.

12 Q Okay. So if I'm a -- if I am a registered  
13 poultry grower, I have an animal waste management  
14 plan, I've got a licensed applicator who has put  
15 litter on my pastures in compliance with the plan,  
16 if you assume all that's true, I don't have to go up  
17 there and if it rains, try to catch samples of water  
18 running off my fields and have them analyzed to make  
19 sure I'm legal?

20 A No.

21 Q Okay. Do you -- in your job, do you ever go  
22 out and take samples of runoff from pastures or  
23 other littered application areas?

24 A No. I have taken water samples in ponds due  
25 to complaints. I've taken water samples upstream,

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1 downstream in creeks, but not just runoff from a  
2 field when they were applying.

3 Q The -- there's a statute, Section 10-9.19A,  
4 and it's land application of poultry waste, see if  
5 you can find that in Exhibit 1. Let me know when  
6 you're there, sir.

7 A Yeah, 9-.19A?

8 Q Yes, sir.

9 A Yes, I have it.

10 Q All right. When I read this, this tells me  
11 that in Oklahoma, all poultry litter going on the  
12 ground is subject to regulation; would I be correct?

13 MR. ELROD: Who's that?

14 MR. TUCKER: Tucker.

15 MR. ELROD: Hey.

16 A Ask that question again, please.

17 Q (By Mr. McDaniel) Sure enough.

18 MR. ELROD: I thought it was Drew.

19 Q (By Mr. McDaniel) The -- is -- excuse me. Is  
20 all poultry litter that is land applied in Oklahoma  
21 subject to ODAFF's jurisdiction?

22 A My understanding it is, yes.

23 Q Well, that's what I got from reading this, and  
24 I wanted to know if that was your understanding. So  
25 if I look at this statute, and under subparagraph

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1 one, if you're a registered poultry operator, you've  
2 got to conduct that application according to your  
3 animal waste management plan. Number two would  
4 apply to somebody who was not a registered poultry  
5 operator, would that be correct, in a nutrient  
6 limited watershed?

7 A I think so. That's the way I understand it.

8 Q Okay. So in other words, let's say I'm a  
9 cattleman. I'm not required to be registered under  
10 your agency's laws, but I want litter on my  
11 pastures. If I read this correctly, that subsection  
12 two means that that litter going on my land, it  
13 still must comply with the statutes as far as rates  
14 and so forth; correct?

15 A Uh-huh.

16 Q Yes or no?

17 A Yes, that's the way I understand it.

18 Q And so that applicator, the person that's  
19 putting it down for me, is one of the primary people  
20 that makes sure they get it right?

21 A That's true.

22 Q Okay. I think you mentioned this morning that  
23 there are some poultry growers in Oklahoma that do  
24 not land apply litter on their own land; is that  
25 true?

1 A That's true.

2 Q In your area of operation, do you have a sense  
3 of what relative percentage of growers either sell  
4 or give their litter away?

5 A No, I really don't. I know that it's --  
6 there's quite a few, but I couldn't -- I wouldn't  
7 be -- probably couldn't be very accurate in --

8 Q Okay, fair enough. I don't want to pin you to  
9 a number if you're not comfortable with it. But can  
10 you give me a sense whether there is a fairly  
11 significant number who are not land applying or just  
12 two or three?

13 A No, there's more than two or three that's not  
14 applying, and there's quite a few egg operations  
15 where they don't land apply.

16 Q Egg operations?

17 A Egg, on their own farms. You use -- a lot of  
18 them don't have the massive land, you know, to put  
19 litter on, so they give it away or sell it. And in  
20 the last couple of years, there's more that is  
21 getting rid of their litter than ever before.  
22 Actually, ever since the law -- I mean the lawsuit  
23 that was with Tulsa-Eucha-Spavinaw watershed, the  
24 nutrient limited watershed, there's seemingly less  
25 people that's applying it on their land, in that

1 area, particularly.

2 Q Isn't it true that some of these poultry  
3 operations, really all that's there is just enough  
4 land for the poultry houses and not really any  
5 pasture?

6 A That's true.

7 Q I mean, these people are really just in the  
8 poultry business?

9 A That's true.

10 Q Okay. Besides the couple of things that  
11 you've mentioned, are there other reasons why people  
12 are not applying the poultry litter on their -- on  
13 the land?

14 A Well, it may be too high in phosphorus, their  
15 soil tests, and they can't legally apply.

16 Q From the discussion this morning with Mr.  
17 Elrod, I understand there's a real relationship  
18 between poultry growing, litter production and  
19 grazing cattle, do you agree?

20 A I agree with that.

21 Q And as far as those who are buying litter and  
22 having it put on their own land, are those mostly  
23 people in the cattle or haying business?

24 A Yes.

25 Q Why -- why do they seek out poultry litter?



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1 Why do they want it? It can't be the smell.

2 A No, it's not the smell. They -- well, they  
3 feel like that it grows -- their land needs the  
4 nutrients that's in the litter in most of those type  
5 cases, and that it grows grass better than  
6 commercial.

7 Q Better than commercial fertilizer?

8 A Most of them feel that way, I think. I  
9 mean --

10 Q Do you have -- could you give us some type of  
11 estimate in your opinion of what percentage of the  
12 pasture in the Illinois River watershed is receiving  
13 poultry litter?

14 A Oh, I couldn't -- I couldn't do that. I don't  
15 know.

16 Q Okay.

17 A For sure.

18 Q But there's a -- would you agree that there's  
19 a significant amount of acreage out there that  
20 there's not any poultry litter going down on?

21 A Yes, I think that's true.

22 Q Now, when these cattle ranchers or hay  
23 operators are acquiring this litter to put on their  
24 own land, and you talked a little bit about this  
25 this morning, is it your understanding that they are

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1 buying the litter from a hauler or a spreader as a  
2 middleman? I mean, who do they -- if I'm a  
3 cattleman and I want to buy litter, can I buy it  
4 from one of these certified commercial applicators,  
5 and then that person makes a deal with a poultry  
6 grower, gets the litter, and then obviously is  
7 trying to sell it at a profit to the cattlemen; is  
8 that how it works?

9 A Yes, it works that way, maybe more now than it  
10 did, but it also works where the grower knows that  
11 Mr. Littlefield lives down the road and he's  
12 interested in litter, and so he says, since you're  
13 the applicator, hey, I've got the litter -- my  
14 litter sold down here, but you need to clean it out  
15 and take it down and spread it for him.

16 Q So that person --

17 A So he's in between.

18 Q Okay. Do most of the applicators, do they  
19 also do clean-outs?

20 A Yes, I would say that most of them do. I  
21 don't know the percentage, but most of them do.

22 Q Let me hand you what I've marked as Exhibit 13  
23 to your deposition, Mr. Littlefield, and represent  
24 to you this is a document that was produced by  
25 ODAFF, and I believe it to be an animal waste

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1 management plan for Al Saunders, so tell me if you  
2 would agree with what I just said?

3 A That this is a farm plan made up by --

4 Q No, that it's for Mr. Al Saunders?

5 A Yes.

6 Q For his place?

7 A And made by ODAFF?

8 Q I don't know who made it.

9 A Oh, okay. I just --

10 Q I was just --

11 A Yeah, this is Mr. Saunders'.

12 Q I don't want the record to be confusing. I  
13 was only telling you that's where I got the  
14 document.

15 A Oh, I see, okay.

16 Q Not necessarily who wrote it.

17 A Okay.

18 Q That's the file it came from.

19 A Okay.

20 Q So you, when you do your inspections, this is  
21 one of the things that you're looking for is to see  
22 their plan?

23 A Yes, sir.

24 Q And I assume you know Al Saunders?

25 A Yes, I do.

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1 Q Okay. This plan states it was prepared August  
2 of 2005. In the middle of that first paragraph A,  
3 let me ask you a couple of questions about that.  
4 There's a sentence that states, the law requires  
5 that the Natural Resources Conservation Service  
6 recommendations for litter application rates be  
7 followed, do you see that?

8 A Yes, sir.

9 Q Okay. And that refers back to the Code 590;  
10 am I right?

11 A Yes, sir.

12 Q All right. Then it goes on to say, NRCS  
13 recommends the application maximum of 200 pounds of  
14 phosphorus per acre per year if the soil test shows  
15 a phosphorus index below 250. Did I read that  
16 correctly?

17 A Yes, sir.

18 Q Then it says, if the soil tests phosphorus  
19 index is between 250 and 400, then the rate  
20 applications are reduced by one-half. If the  
21 phosphorus index is above 400, then no litter is to  
22 be applied. Did I read that correctly?

23 A Yes, sir.

24 Q Okay. So the way I understand this is this  
25 plan was written before the application cutoff went

1 from 400 to 300; would that be a correct statement?

2 A That's true.

3 Q So when this was provided to Mr. Saunders,  
4 that the law allowed him to apply litter up to a  
5 limit of 400 STP?

6 A Yes.

7 Q All right. But we all know now the law is  
8 300; correct?

9 A That's right.

10 Q Okay. Now, let's turn to the next page,  
11 please. Under application rates, it has a section  
12 that says, nutrient content. Does this represent  
13 where the litter is tested, is that what that means,  
14 where it says N-63 pounds, P205-79, is that the  
15 litter?

16 A Yes, I -- that's what I think.

17 Q Okay. Then the next is a table that shows  
18 soil tests from the pastures onto Saunders' farm, is  
19 that how I would read that?

20 A Yes, sir.

21 Q All right. And below that it says in the  
22 text, soils test index is below 250 in all fields  
23 tested. Litter can be applied at the full rate,  
24 which is 200 pound of P 205 per acre, which it says  
25 200 pounds of P 205 divided by 79 pounds of P 205

1 per ton of litter equals a 2.5 tons of litter per  
2 acre per year maximum application rate. Did I read  
3 that right?

4 A Yes.

5 Q Okay. So -- so, you know, lay people who may  
6 read your testimony or watch this videotape, in  
7 essence, this plan has walked through the Code 590  
8 requirements based on the testing of the litter and  
9 a testing of the fields, and is telling Mr.  
10 Saunders, you can apply 2.5 tons of litter per acre  
11 one time a year on your farm. Am I reading that  
12 correctly?

13 A I think so.

14 Q Okay. And I notice, if you look at page five  
15 of the plan, under environmental statement, do you  
16 see Section G?

17 A Yes, sir.

18 Q And it does -- it does further limit him. It  
19 says on slopes of 8 to 15 percent, he can only put  
20 down a half rate, one-and-a-quarter tons per acre;  
21 right?

22 A Yes, sir.

23 Q And that is for the protection of ponds,  
24 intermittent streams and water or highly vulnerable  
25 groundwater; is that correct?

1 A Yes, sir.

2 Q Okay. Now -- all right. Page four, sir, top  
3 of page four, under application summary, the plan  
4 says, 400 acres can receive litter at the rate of  
5 2.5 tons per acre, which equals 1,000 tons that  
6 could be used on this property. This far exceeds  
7 the litter production on this farm. Did I read that  
8 correctly?

9 A Yes, sir.

10 Q So that means that under this plan, Al  
11 Saunders could apply all the litter that his poultry  
12 houses generate, plus some, if he wanted to cover  
13 all of his pastures; correct?

14 A Yes.

15 Q All right. Now, let's talk briefly about dead  
16 bird disposal. In your -- from your understanding  
17 of the law, what is the legal acceptable ways to  
18 deal with, let's call it normal daily mortality of  
19 poultry?

20 A Normal daily mortality is primarily taken care  
21 of, in my area, three ways. It's taken one is  
22 composter, two is incinerator, and three is a  
23 rendering service. I don't know of any other  
24 methods.

25 Q All right.

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1 A Because I don't --

2 Q The first two were done on the farm, the third  
3 one is done off the farm?

4 A Yes, it's -- it's picked up by someone.

5 Q Isn't it true that composting and  
6 incinerating -- are you okay?

7 A I just had a cramp up my leg. Go ahead.

8 Q Are you okay?

9 A Yeah, I'm all right.

10 MR. NANCE: Do you need to walk it off?

11 A I'm okay.

12 Q (By Mr. McDaniel) If you need to kick  
13 somebody, kick Bob.

14 A I just don't want to kick her. I already --

15 MR. NANCE: No. Yeah, I want you to kick  
16 that side of the table instead of her.

17 Q (By Mr. McDaniel) You're in a terrible spot.  
18 Everybody wants you to kick somebody else.

19 A Probably me.

20 Q Isn't it true that -- that at least in the  
21 Illinois River watershed, that the most two common  
22 methods are the composting and the incinerator?

23 A Yes, sir.

24 Q Now, the composting on farms, is that  
25 typically done in a bin with poultry litter?

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1 A Yes, it is.

2 Q All right. And then when the composting is  
3 through running its process, can that material be  
4 land applied in compliance with an animal waste  
5 management plan, is that an acceptable procedure?

6 A Yes.

7 Q Are occasionally the odor problems that you  
8 respond to, are they related to composters?

9 A Yes, you know, some of them, yes.

10 Q Occasionally they need to be --

11 A Occasionally they need to --

12 Q Well, occasionally they need to be emptied  
13 correctly?

14 A Yes, that's right.

15 Q And what -- what do you tell the grower to do  
16 with that litter and compost in that composter; get  
17 it out and get it land applied?

18 A No. If it's composted properly, the odor  
19 problems around the composter is not bad. It's when  
20 it's not composted properly, when they don't turn it  
21 soon enough, they don't let it get hot enough or  
22 whatever the case may be, that's when they have an  
23 odor problem. And at that particular time, they're  
24 going to have to -- they're going to have to do a  
25 better job before they can land apply it. They

1 can't just take dead chickens that's half composted  
2 and put them on the field.

3 Q Okay.

4 A I'm going to have to stand up. My leg is  
5 getting in a cramp again.

6 Q Do you want to take a break?

7 A No, I think I'm okay, I've just -- I've got a  
8 charley horse, I guess is what you call them, isn't  
9 it? I'm fine.

10 Q Okay. So this animal waste management plan  
11 for Mr. Saunders says he's got a composter, in  
12 paragraph D --

13 A Yeah.

14 Q -- on page four? All right. It says,  
15 catastrophic losses are disposed of in a dug pit as  
16 approved by the appropriate poultry inspector. An  
17 alternative method is field composting. All right.  
18 If a catastrophic loss occurs, what's the normal  
19 course of events? Obviously, the poultry grower is  
20 the first one to know what's happened, more than  
21 likely. Now, what is -- what is that grower  
22 supposed to do?

23 A He's supposed to contact, most likely, I don't  
24 know that he does, but most likely he's contacted  
25 the company first, then he's supposed to contact the

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1 Oklahoma Department of Agriculture.

2 Q Is -- is the Oklahoma Department of Health  
3 involved in this at all?

4 A Not to my knowledge.

5 Q Okay. All right. Let's say he calls ODAFF.

6 A Yes.

7 Q And what -- go ahead.

8 A They will get ahold of -- and tell that person  
9 to get ahold of the NRCS if they're not acquainted  
10 with the land or the soil type that they have in  
11 that area so they can determine what would be a good  
12 location in order to dig a pit and put the loss. An  
13 ideal situation is mostly clay base pits. Someone  
14 that's at ODAFF office might not know whether it is  
15 or not, so they normally always -- not always, but  
16 normally call the poultry inspector, have him to go  
17 out and look for a suitable place. That presents a  
18 problem somewhat when you've got 20,000 chickens,  
19 and I'm just using that number, it's not always  
20 that, but 20,000 chickens dead, you really don't  
21 care about getting on the telephone and trying to  
22 call half a dozen people, you're interested in  
23 getting rid of the problem that you have. And so by  
24 doing that, a lot of them, and I think in my area,  
25 mostly, call me, and then I get ahold of Dan, if I

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1 need to; otherwise, I know the farm, I know the  
2 locations, and I'll -- I can tell them to begin and  
3 I'll get there.

4 Q Do you believe Mr. Berry deals with his  
5 growers the same way? If they have a catastrophic  
6 loss, they can call him and he can come out?

7 A I think so. I don't know.

8 Q I'm not asking you to speculate.

9 A Yeah.

10 Q Okay. This -- it makes the statement here, an  
11 alternative method is field composting. What is  
12 field composting?

13 A We don't recommend that. That's taking an  
14 area on your place, making sure it's bermed so that  
15 the waters -- the discharge cannot get waters to the  
16 State, and do the same thing in the open that you do  
17 inside of a composter building. You lay out some  
18 dead, you put litter on top of it, and you literally  
19 compost them right outside.

20 Q Okay. If you don't recommend it, but  
21 apparently it's legal, would you agree?

22 A As far as I know it still is. I -- that you'd  
23 have to ask the legal department. I don't suggest  
24 it.

25 Q Okay. I'll hand you what I've marked as

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1 Exhibit 14, sir.

2 A Okay.

3 Q Do you want to move the rest of that pile up  
4 in front of you, we may or --

5 A Yeah.

6 Q -- may not be going back to them.

7 A Okay.

8 MS. STEWART: 15, or 14 again?

9 A 14.

10 MR. McDANIEL: 14.

11 A What I have, anyway.

12 MR. NANCE: We had the --

13 MS. STEWART: You didn't hand out a new  
14 one. Okay.

15 MR. NANCE: Let's check the --

16 MR. McDANIEL: 13 was the animal waste  
17 management plan.

18 MR. NANCE: We had Saunders as 14.

19 MS. STEWART: It's 13, it's 13.

20 Q (By Mr. McDaniel) All right. Do you  
21 recognize what I've marked as Exhibit 14?

22 A Yes.

23 Q Tell us briefly what that is.

24 A That's the inspection checklist that I do each  
25 year.

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1 Q Okay. This one -- when was this inspection  
2 done; April 7th, 2003 at the top?

3 A Yes.

4 Q And you were -- you were the inspector, that's  
5 your signature on the last page?

6 A That's it.

7 Q All right. And again, this is Al Saunders,  
8 they call their place the Two-Saun Farm; is that  
9 right?

10 A Yes, sir.

11 Q S-A-U-N. Now, if I look down your checklist,  
12 it says date, of animal waste management plan, it  
13 says 5-13-02 applied. What is that -- tell me what  
14 that means.

15 A That means that they had a letter where they  
16 have applied of an animal waste management plan, and  
17 the date of that letter is that date.

18 Q So for you, as the inspector, then, that's  
19 okay, at that time that's okay?

20 A That's correct.

21 Q Okay. It does indicate that they had both a  
22 soil test and litter test in 2002; would you agree  
23 with that?

24 A Yes.

25 Q Now, let's look at the next page. The next

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1 page reports a litter application; is that true?

2 A Yes.

3 Q In May of '02. And what does it say the  
4 application rate was?

5 A Two tons per acre.

6 Q Now, at this time, as far as you know, Mr.  
7 Saunders did not have this animal waste management  
8 plan?

9 A That's true.

10 Q Okay. And so if you recall, that nutrient  
11 manage -- animal waste management plan allowed Mr.  
12 Saunders to apply 2.5 tons per acre?

13 A That's correct.

14 Q And what he applied here in 2002 was two tons  
15 per acre?

16 A That's true.

17 Q So would you agree that that -- it looks like  
18 there's not a problem there, was that --

19 A It's what it looks like.

20 Q Okay. And, in fact, you checked on there --  
21 excuse me, I'm really having a hard time reading.  
22 You didn't find -- as far as the way he's managing  
23 his litter, you didn't find any violations, that's  
24 what I'm trying to ask?

25 A No, I didn't.

1 Q All right. Now, on the last page, you've got  
2 some comments there regarding, it appears to me, has  
3 to do with his continuing education credits?

4 A His initial nine hour education that he needed  
5 to start with.

6 Q Do you remember what that issue was with Mr.  
7 Saunders? Do you remember having a discussion with  
8 him about him getting his hours?

9 A Yeah, I think so.

10 Q Did he get his hours in?

11 A Yes.

12 Q Okay. Is this a big problem for Mr. Saunders,  
13 is this a big deal? Don't get me wrong, I  
14 understand the man has got -- that there's a  
15 requirement that he get his hours.

16 A Right.

17 Q But this -- is this really a big deal that he  
18 didn't get them by the exact date that he needed  
19 them?

20 A Oh, this is '03 and this is '02? No. Most of  
21 the time, I guess all the time, I don't -- I -- I  
22 quit doing this, but I wrote these on here not  
23 because there was a problem, because it would let  
24 the office know that he had made a commitment to  
25 attend the nine hours.



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1 Q Okay.

2 A And that's the only reason that I put that on  
3 there, not because it was a problem.

4 Q It shows that you and the grower and Oklahoma  
5 City all recognize there's an issue, and there's a  
6 commitment to get it resolved; is that one way of  
7 putting it?

8 A Yes, sir.

9 Q And it's documented what everybody's promised  
10 to do?

11 A Yes.

12 Q Okay. All right. Let me ask you to look at  
13 15 and tell me if you recognize that.

14 A Yes.

15 Q What is it?

16 A It's our newer checklist.

17 Q For your on farm inspections?

18 A Yes, for the on farm inspection.

19 Q For Al Saunders, Two-Saun Farm again?

20 A That's correct.

21 Q April 10th, 2006?

22 A Yes.

23 Q So do you know if you've been back out to the  
24 Saunders' farm since this inspection?

25 A I don't think I have. I don't go by their

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1 place that often.

2 Q All right. Now, this -- this inspection  
3 report shows that they do have this September 13th,  
4 2005 animal waste management plan, do you see that?

5 A That's right.

6 Q And immediately below that, a question on the  
7 checklist is, is the animal waste management plan  
8 being followed by this operation, and you check yes;  
9 true?

10 A Yes.

11 Q Now, you're aware that Mr. Saunders operates a  
12 cattle operation north of his house?

13 A Yes.

14 Q Have you ever been up on that piece of land?

15 A No, I have not.

16 Q Do you know who makes the decisions regarding  
17 the use and management of poultry litter on that  
18 cattle operation?

19 A I don't understand what -- who --

20 Q Was it your understanding that Mr. Saunders is  
21 deciding where to put his litter and how to manage  
22 his litter --

23 A Yes.

24 Q -- on his cattle operation?

25 A Yes.

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1 Q Okay. To your knowledge, has Mr. Saunders  
2 done anything on his property that's resulted in the  
3 runoff of poultry waste?

4 A Not to my knowledge.

5 Q To your knowledge, has Mr. Saunders done  
6 anything to result in the discharge of poultry  
7 waste?

8 A Not to my knowledge.

9 Q To your knowledge, Mr. Littlefield, has Mr.  
10 Saunders done anything on his property to cause the  
11 contamination of the waters of the State of  
12 Oklahoma?

13 A Not to my knowledge.

14 Q All right. Let me -- we're done with that  
15 one, sir. Let me hand you a list that I marked as  
16 Exhibit 16. What this is, Mr. Littlefield, is I'll  
17 represent to you that I believe that this is the  
18 list -- a list of poultry growers in Oklahoma in the  
19 Illinois River watershed that currently have a  
20 contract with Peterson Farms. So my first question  
21 is, can you identify any of these growers for whom  
22 you are the regular inspector? We've already --  
23 we've already talked about the Two-Saun Farm next to  
24 the bottom. Are there any of the others that are  
25 your growers?

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1 A All of them except Jeff Tanners -- Andrews,  
2 Andrews, and Anita.

3 Q Okay. So Jeff Andrews in Rose and Anita  
4 Andrews in Kansas are not within your district?

5 A Yes, sir.

6 Q Everyone else is? Okay. So Dennis  
7 Chamberlain, Diamond S Farms --

8 A Diamond S Farms, what do you -- are you  
9 acquainted with what the owner of that one is?

10 Q If I can answer, I will. I don't have the  
11 person's name. It's on Route 1, Box 345, Colcord.

12 A That's the only one I have any question about.

13 Q It's got three houses, three houses on that  
14 operation.

15 A That would be the only one that I'd have any  
16 question about, but I know the others personally,  
17 and I probably know him.

18 MR. ELROD: I'm sorry, would you restate  
19 who these people are?

20 MR. McDANIEL: Current Oklahoma Illinois  
21 River watershed growers under contract with Peterson  
22 Farms.

23 Q (By Mr. McDaniel) Okay. Now that we've gone  
24 back and forth, you're certain that Anita Andrews  
25 and Jeff Andrews are not yours?

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1 A Yes.

2 Q You have a question with regard to Diamond S?

3 A That's right.

4 Q All right. Can I see your copy of that? And  
5 what I'm going to do is I'm going to draw a line  
6 through these two names, you can still read them,  
7 but I'm going to draw a line through them, and then  
8 I'm going to put a question mark by Diamond S, and  
9 tell me if by doing that, I've fairly represented  
10 your testimony about that list?

11 A Yes.

12 Q Okay. Now, with regard to the ones that you  
13 are aware are within your district, everyone except  
14 Anita Andrews, Jeff Andrews, and I'm not going to  
15 ask you about Diamond S Farms, everybody else on  
16 that list, to your knowledge -- let's see, one, two,  
17 three, four, five, six -- to your knowledge, have  
18 any one of these Oklahoma poultry growers done  
19 anything to cause the contamination of the waters of  
20 the state of Oklahoma?

21 A Not to my knowledge.

22 Q Are you aware of any poultry grower under  
23 contract with Peterson Farms, Inc. that has caused  
24 the contamination of the waters of the state of  
25 Oklahoma in the Illinois River watershed?

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1 A To what I know, no.

2 Q Any grower ever, to your knowledge under  
3 contract with Peterson Farms, is your answer still  
4 not to your knowledge?

5 A Yes, sir.

6 Q Okay. The complaint investigation part of  
7 your job, we've talked about odor complaints. What  
8 other types of complaints do you have to respond to,  
9 just by category?

10 A Well, application rate, spreading too close to  
11 swales or water, you know, contamination, that's  
12 mentioned a lot, applying too close to waters of the  
13 State, overapplying.

14 Q Every -- you talked about it this morning, so  
15 I don't want to waste time going through it again,  
16 but in order for you to act on a complaint, you have  
17 to receive some directive from Oklahoma City; is  
18 that true?

19 A That's right.

20 Q All right. So once -- are you given a  
21 specific directive, please go look, see what you  
22 find, in other words, you're told what is needed?

23 A There is a complaint -- the protocol is they  
24 have a complaint form that's filled out.

25 Q Okay.

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1 A And it will say who it's against and who made  
2 the complaint, names and addresses, if they have  
3 them, directions, driving directions to get there,  
4 then it will have whatever that individual has told  
5 them that the complaint is, and that's -- they take  
6 it verbatim, they don't deviate from it. Whatever  
7 they say, that's the way they put it down. And  
8 maybe they'll call me and tell me about that, and  
9 then they'll fax me a copy of it so I'll have it  
10 with me.

11 Q When you go do your field investigation, are  
12 you required to report in writing in response to the  
13 complaint that comes from Oklahoma City to your  
14 superiors?

15 A Yes. After I make an investigation, I then do  
16 a hand -- a typed record of what my findings were.

17 Q Okay. Once you send your findings back, is  
18 that the end of your involvement in the matter?

19 A In most cases it is because it would be taken  
20 care of, and a letter would go back saying it's been  
21 investigated and there was nothing found.

22 Q If your investigation, in fact, found  
23 something that needed to be dealt with --

24 A Uh-huh.

25 Q -- could you -- would your role be to check

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1 back later and see if it, in fact, was taken care of  
2 addressed?

3 A Yes. We have a follow up that we use in some  
4 cases, depending on the allegations that were made  
5 and things, whether a follow up was necessary or not  
6 necessary, so sometimes, and not sometimes, but  
7 quite often we do that.

8 Q In the case of a registered poultry grower,  
9 isn't it true that if a poultry grower violates  
10 these statutes, they could lose their registration  
11 for their operation?

12 A Well, that's a technical question that someone  
13 else would have to answer, but technically they  
14 could, I would assume, my -- my thinking is.

15 Q Okay. Someone, not you, would make that  
16 decision?

17 A Absolutely.

18 Q But the statutes would authorize going that  
19 far, if necessary?

20 A I -- I -- I think it depends on what it is,  
21 because there is some areas in the law that you've  
22 read that there's fines is appropriate and not just  
23 shutting them down, so it has to be that's something  
24 that's reoccurred or something, I would think.  
25 That's just my opinion.

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1 Q But you -- you've gotten to know a lot of  
2 these folks that you're on their farms?

3 A Yes, I have.

4 Q Isn't it true that for these Oklahoma growers,  
5 if they lost their registration, it might very well  
6 mean bankruptcy for them?

7 A Well, I would think so.

8 Q Because you can't grow chickens in this state  
9 without a registration; is that right?

10 A That's right.

11 Q And an integrator is not allowed to contract  
12 with you if you don't have a registration; isn't  
13 that right?

14 A Yes, sir.

15 Q And if you've got a mortgage on five poultry  
16 houses, you're in serious trouble if you lose your  
17 registration, that's a pretty common sense  
18 statement; isn't it?

19 A I'd think so.

20 Q So it's very much in the interest of the  
21 poultry grower to comply with the laws and not have  
22 Mr. John Littlefield showing up upset on your front  
23 doorstep; isn't --

24 A That's true.

25 Q -- that a true statement? I have seen, just

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1 looking at some of the documents in your agency's  
2 file, that occasionally you guys will be asked to go  
3 respond to a complaint where other dead livestock or  
4 other carcasses have been disposed of; is that true?  
5 Like somebody has dumped cattle -- dead cattle in a  
6 ravine or something like that or just left a  
7 horse -- dead horse laying in the field, is that  
8 within your responsibility?

9 A I -- I have done some inspections or  
10 complaints like that, and I don't know about the  
11 other inspectors, I just know about myself, and it  
12 has been due to the fact that one of the other  
13 cattle inspectors or something was not available,  
14 was off sick, they were short a hand or something,  
15 and -- and Dan would ask me to investigate a large  
16 animal complaint.

17 Q So that's not -- that's not your normal  
18 responsibility?

19 A That's not my normal responsibility, but I  
20 have done that.

21 Q I assume in dealing -- investigating  
22 complaints, that a fair number of your complaints  
23 involve non-poultry people; is that true?

24 A I think that's true.

25 Q And to make sure that I'm clear, I would

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1 consider a commercial applicator, who was not a  
2 poultry grower, a non-poultry person, just so you  
3 and you I are using the same words. In other words,  
4 you're a poultry grower or you're not, and what --  
5 so you would agree that a number of your complaints  
6 are related to people who are not poultry growers?

7 A I think so.

8 Q Let me ask you to look at Exhibit 17, and,  
9 sir, I don't expect you to necessarily recognize all  
10 the documents in this exhibit, but tell me if you're  
11 aware of this circumstance it refers to, situation  
12 it refers to?

13 A Yeah, I'm acquainted with this.

14 Q Okay. You remember Mr. -- is Perry Williams  
15 the respondent here?

16 A Yes.

17 Q Okay. You were at least involved in part of  
18 the field inspection on this complaint; right?

19 A Yes.

20 Q What was Mr. Williams up to that led to a  
21 complaint?

22 A Well, you know, this has been some time ago.  
23 I don't know when it was now.

24 Q 2004.

25 A 2004. I don't know what he was up to. All I

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1 know is is that it was reported that he did not have  
2 a license to spread litter, and I went out and  
3 investigated and got ahold of him, and he didn't.

4 Q Did he, in fact, spread some litter without a  
5 license?

6 A I can't remember. Yeah, he did.

7 Q Was it his own land or somebody else's?

8 A That I don't remember.

9 Q Okay. It makes reference to this A&W  
10 Trucking. Was he hauling litter in his own trucks  
11 and spreading it?

12 A That was the only address that I had on him.

13 Q Okay.

14 A Because that -- I think he runs that or did  
15 run it or own it or something, and that's where I  
16 caught him and found him.

17 Q If you flip back through here, there's a  
18 sheet, and the top of the sheet says, summary of  
19 informal action, and the number at the bottom right  
20 is 64825, if that will help. Did you find that  
21 page, Mr. Littlefield?

22 A Yes, sir, I did.

23 Q I assume, sir, that you don't necessarily get  
24 to see how these matters are resolved?

25 A No, I don't.

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1 Q Okay. Is there any process where, you know,  
2 the resolutions or orders by the ag board on these  
3 get sent back to a file you maintain?

4 A No, I -- I don't remember getting a copy of  
5 this back.

6 Q Okay. And I'm not suggesting you did. I'm  
7 just trying to understand how paper flows --

8 A Yeah.

9 Q -- on a complaint. By the way, do you -- do  
10 you have an office or do you work from your home?

11 A I work from my home.

12 Q Do you have a place in your office that you  
13 keep your inspector files, papers, whatever?

14 A Yeah.

15 Q Okay. Tell me what sort of requirements the  
16 ODAFF has placed on you as far as maintaining  
17 records, what are you required to do?

18 A I don't remember them ever telling me that I  
19 was required to keep any records at all.

20 Q What's your normal practice?

21 A Well, because I didn't -- when I first  
22 started, I didn't get -- know where everyone lived  
23 or know anything about them, I had a rough time of  
24 trying to find them and trying to do this and that,  
25 and so I made it a point myself to try to keep some

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1 records from things that I sent ODAFF so that  
2 whoever takes my place, I'm not going to leave them  
3 stranded in the case that I was in, so I do keep a  
4 copy of these -- there's three copies in a booklet,  
5 and I keep a copy of my inspection sheets. I keep a  
6 copy of an investigation that I've done on a  
7 complaint. If it is a poultry grower, I used to  
8 keep it in the poultry grower file, and now, I just  
9 kind of keep them all together because I've got --  
10 for room purposes.

11 Q So you say at one point you filed them by  
12 grower?

13 A Well, if the complaint was on a grower, I put  
14 it in the grower's file. I've got a folder for that  
15 grower and I put it in his file.

16 Q Okay.

17 A And if it was on an applicator or some farmer  
18 and the grower was not involved, other than somebody  
19 sold him litter or something, I would -- had that  
20 just in a complaint file.

21 Q Okay. So do you just -- do you keep them now  
22 just chronologically?

23 A Yes, just altogether, chronologically by date.

24 Q As part of this lawsuit, you know, the lawyers  
25 exchange a lot of requests for information in

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1 writing. At any time, have you been asked to  
2 produce your files so that the department or lawyers  
3 for the State can make copies or review your  
4 documents?

5 A Not to my knowledge, I don't remember that.

6 Q Okay. All right.

7 A They've got all of mine.

8 MR. McDANIEL: I've got a couple of quick  
9 questions. Well, we probably need to take our --  
10 we'll take our break now?

11 A Okay.

12 MR. McDANIEL: I know everyone wants to  
13 leave the room now, and I'm pretty close to  
14 finished, if that will boost your morale.

15 MS. STEWART: Boosts mine.

16 VIDEOGRAPHER: We are now off the record.  
17 The time is 2:44 p.m.

18 (Following a brief recess at 2:40 p.m.,  
19 proceedings continued on the record at 2:52 p.m.)

20 VIDEOGRAPHER: We are back on the record.  
21 The time is 2:56 p.m.

22 Q (By Mr. McDaniel) Mr. Littlefield, after we  
23 took our little diversion and talked about  
24 documents, we were talking about this Mr. Perry  
25 Williams' circumstance, and I asked you to find that

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1 sheet in Exhibit 17 that says summary of informal  
2 action. Are you still --

3 A Yes. (Indicating).

4 Q Well, this is summary of formal action. It's  
5 a little farther back in the document, I think.

6 A Yeah, it's 25. Okay. Yes.

7 Q And if you want to take a second to glance  
8 over the first few paragraphs, I read this to state,  
9 essentially, that Mr. Williams entered some sort of  
10 consent agreeing with the ag board and agreed to a  
11 fine and some other actions he would take, am I on  
12 the right track?

13 A Yeah, that's what I understand.

14 Q Okay. So he's going to pay some money and  
15 he's going to get his -- get his license and get his  
16 training is what he was committed to do?

17 A Yes, sir.

18 Q All right. Do you recall, Mr. Littlefield,  
19 whether this spreading incident occurred more than  
20 once? Had there been repeated complaints related to  
21 Mr. Williams or was it just the one time that you're  
22 aware of?

23 A I'm just aware of the one time.

24 Q Okay. This is certainly not the only case  
25 where someone was illegally spreading poultry litter



1 in the Illinois River watershed; true?

2 A That's true, I'm sure. I don't remember all  
3 the incidents, but --

4 Q But there have been others?

5 A Yes.

6 Q Help me understand -- help me understand the  
7 magnitude of the problem of illegal litter spreading  
8 in the Illinois watershed, to your knowledge.

9 A Well, honestly, to my knowledge, I haven't  
10 been aware of that magnitude.

11 Q Well, help me understand what the magnitude  
12 is. Is it seldom, is it occasional, is it fairly  
13 frequent or some other way you would like to  
14 describe it or think it can be fairly described?

15 A For the area that I have of the Illinois  
16 watershed, okay, I'm not speaking for the other  
17 counties, I would say seldom.

18 Q Seldom?

19 A Yes, sir.

20 Q Okay. This Mr. Perry Williams, to your  
21 knowledge, is he a poultry grower?

22 A No, he is not, in Oklahoma. I don't know  
23 about --

24 Q To your knowledge, he's not?

25 A To my knowledge, yes.

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1 Q I would suspect that people illegally land  
2 applying poultry litter is -- I would suspect those  
3 people are pretty hard to catch; would that be true?

4 A Pretty hard to catch?

5 Q Yes, sir.

6 A I'd think so.

7 Q Because if they are not registered with the  
8 State as a poultry grower or as a certified hauler,  
9 they're just kind of a ghost out there; is that --

10 A That's true.

11 Q Have you ever observed where a poultry grower  
12 had litter stacked outside in an uncovered  
13 circumstance?

14 A Yes, I've seen that.

15 Q Okay. And when you see that, what do you  
16 direct the grower to do under that circumstance?

17 A I tell them that they've got to get a berm  
18 around it if it does not, or they have to get it  
19 covered or get it moved.

20 Q Okay.

21 A Either land apply it, if that's possible, or  
22 sell it, give it away to someone that will.

23 Q Okay. When you give those directions, has it  
24 been your experience that people try to comply with  
25 your --

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1 A Yes, sir.

2 Q -- instructions?

3 A Those I usually do a follow up on.

4 Q To see that it got picked up?

5 A Yes.

6 Q Are there any poultry -- strike that. There  
7 are no regulations in Oklahoma regarding the use of  
8 commercial fertilizer; right?

9 A No, sir, not to my knowledge.

10 Q So one could overapply a phosphorus containing  
11 commercial fertilizer as much as they want, and you,  
12 in your jurisdiction, you couldn't do anything about  
13 it?

14 A That's true.

15 Q You know, just a personal question, does that  
16 make sense to you that poultry litter is regulated  
17 from A to Z, but you can do anything you want with  
18 commercial fertilizer?

19 A From my opinion, no, it doesn't make sense.

20 Q Okay. Tell me, help me understand what -- why  
21 feel that way?

22 A Well, from what little I know, phosphorus is  
23 phosphorus, if it's from poultry or cows or  
24 commercial. And to be able to identify it after it  
25 gets in the water or in the soil, I've been told by

1 people at OSU, and I ask specifically, that they  
2 couldn't tell. That was just for my own  
3 information. I just wanted to know, no particular  
4 reason, satisfy my --

5 Q So are you saying, sir, that it doesn't make  
6 sense to you to regulate one potential phosphorus or  
7 phosphate containing fertilizer and not another  
8 phosphate containing fertilizer?

9 MR. NANCE: Object to the form. You can  
10 answer.

11 Q (By Mr. McDaniel) Do you want me --

12 A Well, personally, my opinion, no, it doesn't  
13 make sense.

14 Q Okay. Is there any -- is there any Oklahoma  
15 law that you're aware of that requires a landowner  
16 to fence his cattle out of the streams in the  
17 Illinois River watershed?

18 A To do what now?

19 Q Is there any law, Oklahoma law, to your  
20 knowledge, that requires a landowner to fence his  
21 cattle out of the streams?

22 A Not any that I know of.

23 Q I assume you've seen where cattle have done  
24 damage to streams and other water courses?

25 A Yes, I have.

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1 Q Do you believe that cattle are causing harm to  
2 the waters in the Illinois River watershed?

3 A I think they contribute. I don't know that  
4 they do harm.

5 Q Okay. They're -- they're at least  
6 contributing to the conditions of the water?

7 A I think so.

8 Q Okay. I gather that you spent a lot of time  
9 in your truck or your car and you're out in these  
10 watersheds, because that's where your job is; right?

11 A Yes, sir.

12 Q So how many miles do you drive a week?

13 A Around 3,000 a month.

14 Q 3,000 miles a month in the course of your job?

15 A Yes, sir, more or less.

16 Q In my mind, I think of you almost like that  
17 rural postman, you kind of see everything, you're  
18 out there, you know what's -- I feel that you  
19 probably have a pretty good sense of what's going on  
20 in those watersheds; would I --

21 A I think I do.

22 Q Okay. And I suspect because you're an  
23 inspector, you're an observant individual?

24 A I usually watch.

25 Q And I suspect that you notice when things

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1 change?

2 A Yeah, I do.

3 Q Have you noticed that there is an erosion  
4 problem on the stream banks along the waterways in  
5 the Illinois River watershed?

6 A Yes, I've noticed it in practically all the  
7 streams.

8 Q And, in fact, some of the streams are getting  
9 wider and shallower with time; is that a fair --

10 A I think that's a fair statement.

11 Q And -- and I'm sure you agree some of that is  
12 just what mother nature does?

13 A Yes.

14 Q But some of it is what man does or doesn't do;  
15 would you agree with that?

16 A Yes.

17 Q And part of the problem is we insist on trying  
18 to grow grass and let our cattle run right up to the  
19 water's edge; isn't that true?

20 A That's true.

21 Q We cut the trees down, and there's nothing  
22 left to hold those banks and they give way, you've  
23 seen that in the watershed?

24 A Yes.

25 Q And I'm sure that you understand, Mr.

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1 Littlefield, this lawsuit is largely about  
2 allegations of water contamination in the Illinois  
3 River watershed, and I'm curious, as a man who  
4 spends a lot of time in that watershed and is  
5 observant, what other things, besides the  
6 allegations about poultry, what other things have  
7 you seen out in these watersheds that at least you  
8 personally have some concern could be causing harm  
9 to the water in the watershed?

10 A Well, again, that's just strictly my, you  
11 know, personal opinion. I -- I see things  
12 occasionally, I think about things, but as far as --  
13 most of the time it's construction bothers -- it  
14 doesn't bother me, I mean, you know, I'm aware  
15 that -- that the areas are growing and everything is  
16 getting more populated, especially in the eastern  
17 Oklahoma where the population growth is higher than  
18 it is anywhere else in the state, they're knocking  
19 off hilltops and building houses and roads, and I  
20 think -- and it's an opinion, you asked me, I gave  
21 my opinion, that that contributes lots of nutrients  
22 to water. If grass is on top of that hillside, it's  
23 a lot more difficult for that to get to the water  
24 than it is if it's gravel and dirt when we get a  
25 rain. Those are things that bothers me that's not

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1 animal related, strictly man. Most people that  
2 wants a new home likes to have it in the woods and  
3 back on the creek, and me included, but that  
4 definitely has some effect, I think.

5 Q Anything else that bothers you or that you  
6 think may be placing the water at risk in that  
7 watershed that we haven't talked about?

8 A No, I think we've touched, you know,  
9 everything, the animals and --

10 Q Mr. Elrod talked to you this morning about the  
11 sampling of the cross section of Oklahoma growers  
12 that was part of that meeting in little Kansas?

13 A Yes.

14 Q And later -- well, actually, I guess it was  
15 last summer, so in 2006, there was sampling done on  
16 a number of poultry growers' farms; were you aware  
17 of that, sampling of --

18 A Yes, I found out about it later. No one told  
19 me.

20 Q Okay. You weren't -- that is my question. If  
21 originally you and Mr. Berry were going to be part  
22 of the people taking the samples, why is it when the  
23 sampling actually occurred you weren't there; can  
24 you explain that?

25 A I don't know why we wasn't.

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1 Q Were you told that you couldn't be there for  
2 some particular reason?

3 A No. We were told that, to the best of my  
4 memory, that we wasn't going to have to participate.

5 Q Okay. And that you weren't going to be  
6 allowed to participate?

7 A Well, I don't know that he put it that way. I  
8 don't remember the exact --

9 Q Sir, are you aware of the results of that  
10 sampling indicating that there's a problem on any of  
11 those poultry farms?

12 A The sampling that's been taken in 2006?

13 Q Yes, sir.

14 A No, sir, I'm -- I'm not aware of any.

15 Q Okay. Nobody has come to you --

16 A Nobody has told me.

17 Q -- and said, oh, boy, look at what we've  
18 found, we've got a problem out here, nothing like  
19 that?

20 A No, I haven't heard that.

21 Q Since -- has this lawsuit in any way affected  
22 the amount of work that you have to do?

23 A Yeah, I think it has.

24 Q How so?

25 A Well, probably more sampling and things. I

1 don't know that it has in -- you know, give me that  
2 much more, but --

3 Q Have your procedures changed since -- as a  
4 consequence or in any way related to this lawsuit?

5 A Not that I can recognize right off. I don't  
6 think so. I'm just more cognizant of the fact that  
7 that's going on, so I try to be -- not that I wasn't  
8 careful before, but I just try to be more careful  
9 and more accurate and more precise of exactly what  
10 I'm doing.

11 MR. McDANIEL: That's all the questions  
12 that I have, Mr. Littlefield. Thank you very much.  
13 I'll pass the microphone.

14 DIRECT EXAMINATION

15 BY MR. SANDERS:

16 Q Mr. Littlefield, my name is Bob Sanders, and I  
17 represent Cal-Maine defendants in this lawsuit. Can  
18 you hear me from here?

19 A Not very well. That's all right. If you can  
20 speak up.

21 Q Okay. I'll move down that way.

22 A Okay. I'm sorry.

23 Q That's okay.

24 A It must be age.

25 MR. NANCE: It's going to get older.

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1 Q (By Mr. Sanders) All right. I was saying my  
2 name is Bob Sanders. I represent the Cal-Maine  
3 defendants in this lawsuit.

4 A All right, sir.

5 Q I've just got a few questions for you. I want  
6 to go back and ask you a couple of questions about  
7 that 2002 sampling that you talked about earlier  
8 this morning, the random sampling, where you all did  
9 the 25, and I think you said that you picked out  
10 three, specifically picked three of the growers to  
11 be in that 25; is that correct?

12 A Yeah, I picked -- I picked them out. I  
13 specifically picked out some that I knew that was  
14 not supposed to be spreading litter that had a high  
15 phosphorus level, and I specifically picked them  
16 out.

17 Q Okay. Who picked the other 22?

18 A I did that, too.

19 Q All right. Well, when you picked them, you  
20 said it was random, did you put 200 names on pieces  
21 of paper and draw them out of a hat or did you just  
22 select 22?

23 A No, I just -- I was trying to -- I was just  
24 trying to get them in all the different areas. I  
25 wanted to get some in the Eucha-Spavinaw watershed,

1 I wanted to get some in the Grand watershed, and so  
2 I, you know, I just picked them out that way.

3 Q Okay.

4 A I used another thing of determining the  
5 fields, you know, if they had a dozen fields or  
6 something, you know, well, I --

7 Q Okay, I gotcha. What was the purpose of that  
8 2002 random sampling?

9 A Well, I don't know particularly. I mean,  
10 that -- that was a call that was made by Mr. Parrish  
11 and asking us to do that, and I don't know exactly  
12 why.

13 Q All right. So far as you know, is he the one  
14 who thought of the idea or do you know? Do you  
15 know -- do you know who came up with the idea of  
16 conducting --

17 A No, I don't know who came up with the idea --

18 Q All right.

19 A -- you know --

20 Q Okay.

21 A -- specifically.

22 Q Do you know what was done with the results of  
23 that sampling?

24 A Each one of the farmers got a copy of that  
25 back.

1 Q Okay. But do you know what the State of  
2 Oklahoma had for or what their purpose in doing the  
3 sampling was?

4 A No. I know they sent them out letters, you  
5 know, telling them that they could not apply, but  
6 there wasn't -- in my case, in my area, they wasn't  
7 applying anyway except there was one that was, but  
8 he was in a different watershed than what ODAFF  
9 thought he was.

10 Q All right. Can you find Exhibit 3 in your  
11 stack there?

12 A Yes.

13 Q All right. And I believe -- I didn't bring my  
14 Exhibit 3 with me, but I believe that shows some of  
15 the test results from one of the samplings in that  
16 2002 random sampling?

17 A That's right.

18 Q Now, and you testified earlier that the OSU  
19 protocol called for sampling at six inches of depth?

20 A That's right.

21 Q And if you'll look on that Exhibit 3, I think  
22 it's on the second page, it says that the sampling  
23 depth for this particular sample on Jimmy  
24 Hollenbeck's property was at three inches?

25 A That's right.

1 Q Do you know why, why use three instead of six  
2 inches?

3 A Yes, I do.

4 Q What was that?

5 A I wrote that myself. And I was the one that  
6 did the sampling, along with the help of David Berry  
7 and Jimmy Hollenbeck. We could not get our probes  
8 in the ground.

9 Q Okay.

10 A It was so hard.

11 MR. ELROD: I knew you were going to say  
12 that.

13 A And so I could get a sampling -- since that  
14 name was put out, I could only go down three inches,  
15 and so I -- and all the rest of them we went six.

16 Q (By Mr. Sanders) Okay.

17 A And I wanted to make sure that our office knew  
18 that, and so I specifically wrote it down on the  
19 chain of com -- chain of custody so that they would  
20 know that.

21 Q Well, that makes sense. I'm from Mississippi  
22 and we don't have that problem. We can dig as deep  
23 as we want to, and that didn't occur to me, I was  
24 just curious. Mr. Elrod asked you about some State  
25 or maybe ODAFF employees that he knew of or at least

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1 he thought he knew that used litter. Do you know of  
2 any other ODAFF employees who use litter on their  
3 own lands that he did not mention this morning?

4 A No, I don't know of any.

5 Q Okay. Do you own land yourself?

6 A Yes, I do.

7 Q Do you ever use chicken litter on your land?

8 A My son has, I don't.

9 Q All right. Where does your son --

10 A But to my suggestion, he did.

11 Q You recommended chicken litter to your son?

12 A Yeah.

13 Q Now, where does he live?

14 A Northwest of Pryor is where his farm is.

15 Q All right. Again, I don't know where that is.

16 Is that in the IRW --

17 A That -- that's what?

18 Q Is that in the Illinois River watershed?

19 A No, it's not. That there is the Illinois --  
20 Fort Gibson watershed.

21 Q Okay. Is that a nutrient system?

22 A That now is a nutrient limited, at the same  
23 time that the Illinois went into the nutrient  
24 limited level.

25 Q All right. And does your son still use

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1 that --

2 A He has, yes.

3 Q Are you still recommending to him that he use  
4 it?

5 A Yes, I would.

6 Q Do you have family members or friends who use  
7 chicken litter?

8 A I don't have any family members that I know  
9 of, but I have -- I have friends that do.

10 Q All right. Do you ever recommend the use of  
11 chicken litter to any of your friends?

12 A I haven't recommended to them. You know,  
13 they've made up their own mind about it, or somebody  
14 else recommended it, I guess.

15 Q All right. And I guess today, the State of  
16 Oklahoma will still license brand new poultry  
17 growing operations in the Illinois River watershed;  
18 is that correct?

19 A Yes, if they meet -- to my knowledge, if they  
20 meet all the guidelines and requirements they will.

21 Q But next week, if I wanted to quit doing what  
22 I'm doing and I wanted to move to the Illinois River  
23 watershed and start a poultry operation, and if I  
24 could show the State of Illinois that I was going to  
25 follow all their state laws and regulations, I could



1 get a brand new license for a brand new poultry  
2 operation; is that correct?

3 A I think you would have to have a poultry  
4 company that would want you to grow chickens, and  
5 then you would have to get a license, and there's no  
6 objection to the State as long as you follow the  
7 rules.

8 Q Okay, that's fine. Mr. McDaniel asked you --  
9 was asking you about the relationship between  
10 chicken and cow and so forth, and at one time point  
11 he asked you whether there was a significant  
12 amount -- or I think you said there was a  
13 significant amount of land that cattle litter was  
14 not applied to. Were you talking about cattle  
15 pastureland when you said that?

16 A Land that -- I don't know that I understand  
17 what you're --

18 Q You all were talking about how much land does  
19 not have litter applied to it, and I think you said  
20 there was a significant amount of land did not have  
21 litter applied to it. Were you talking about a  
22 significant amount of pastureland, cattle  
23 pastureland when you answered that?

24 A Yes, that's -- that's what I was talking  
25 about, and -- and including all the land.

1 Q Right.

2 A I had -- because there's some of it you  
3 couldn't apply litter to with trees and rocks and  
4 what have you, but --

5 Q Right.

6 A -- there is -- and just in my opinion, I don't  
7 know exactly.

8 Q I understand. No, I think you said that you  
9 couldn't tell him how much pastureland had litter  
10 and how much didn't, but you thought that it was a  
11 significant amount of pastureland did not have  
12 litter.

13 A I think that's a true statement.

14 Q All right. Let me just represent to you that  
15 Cal-Maine, the companies that I work for, used to  
16 have some independent contract growers in the  
17 Illinois River watershed.

18 A Yes, they did.

19 Q They do not anymore. Did you have any of the  
20 Cal-Maine independent contract growers in your  
21 region, in your area?

22 A No, I did not, but I met them.

23 Q Okay. Well, then, they would have been --

24 A In David Berry's.

25 Q -- in David Berry's. Okay. Well, that saves

1 you another five minutes.

2 A Good.

3 MR. SANDERS: I think that's all I have.  
4 Thank you, sir.

5 MR. THOMPSON: Kind of like musical chairs.

6 A He looks like he's short-winded, let him have  
7 that seat.

8 MR. THOMPSON: Well, when I tell you when  
9 Mr. Elrod asked everybody if they -- what their MOS  
10 was when they were in the military, I always follow  
11 that with, I'm an infantry guy. So not only am I  
12 short-winded, I'm not very smart. So these  
13 questions should be relatively quick.

14 MR. ELROD: Did you ever kill anybody?

15 A I wasn't implying that I was one.

16 Q I knew when you said 7100 dot something, that  
17 it wasn't infantry.

18 MR. ELROD: I'll tell you something, he has  
19 killed people, but he's never done it in a  
20 deposition, so you can relax.

21 MR. THOMPSON: And it hasn't been that long  
22 ago. But that's neither here nor there.

23 DIRECT EXAMINATION

24 BY MR. THOMPSON:

25 Q I have just a handful of follow-up questions,

1 Mr. Littlefield, so if you'll bear with me as I skip  
2 around, I think we'll get through them relatively  
3 quickly.

4 A Okay.

5 Q Earlier today with Mr. Elrod, you talked about  
6 the three hour course that you teach. I don't know  
7 if teach is the right word, but that you provide to  
8 the growers that need --

9 A Yes.

10 Q -- the three hour follow up?

11 A Yes, sir.

12 Q During that conversation, you mentioned that  
13 you address rodent and bug issues inside the poultry  
14 growers' houses with them; is that correct?

15 A No, I do not. That is not my expertise. I  
16 don't know anything about rodents and bugs other  
17 than what I've learned being in some of those  
18 education classes. They'll have someone that is an  
19 expert in that particular area that gives those --  
20 that information. The only thing that I do has to  
21 do with rules and regulations for ODAFF and the  
22 poultry litter.

23 Q I must have misunderstood you on that.

24 A I'm sorry. I might have said it wrong.

25 Q No, that's okay. It's been a long day and

1 we're all probably a little bit confused and tired  
2 by this point, especially myself. When you receive  
3 a request to investigate a complaint that ODAFF has  
4 received, who gives you that call?

5 A It will be someone from the office of the  
6 names that was read to me this morning, you know, in  
7 the office there, whoever -- I don't know who's  
8 designated to take them. I think if one is gone,  
9 the other one takes -- you know, takes the call, and  
10 once they determine -- they fill out the complaint  
11 form, they determine what inspector gets it, well,  
12 they call and tell us, and if we have faxes or  
13 whatever, well, they'll fax it to us. I usually ask  
14 for a copy to be sent to me so I can see it.

15 Q Okay. So it's not a situation where there's  
16 one person that calls you all the time --

17 A No.

18 Q -- on every complaint? Okay. In that regard,  
19 that kind of ties into something else that I want to  
20 get to last, but since you mentioned faxes and  
21 communications from the State, do you exchange  
22 e-mails with the State on these topics at all?

23 A No.

24 Q Okay. Saved you five minutes there, too.

25 A You're doing a good job.

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1 Q That's the luxury of going after these three  
2 brilliant lawyers that I followed this afternoon.  
3 Do you have Exhibit 4 in front of you, Mr.  
4 Littlefield?

5 A 4?

6 Q Yes, sir.

7 A Yes, I do.

8 Q In the subject where it states what the  
9 memorandum is regarding, it says soil and poultry  
10 waste sampling needed for compliance issue. What  
11 does the term compliance issue mean to you as an  
12 ODAFF field inspector?

13 A I don't know.

14 Q Is that different from the routine sampling  
15 that you were asked to conduct?

16 A No. Soil and poultry waste sampling needed  
17 for compliance issue. I -- we did a sampling on  
18 these people. I did a sampling on these people, and  
19 it was according to the protocol. We did six inch  
20 sampling. We -- he got the litter analysis for me  
21 or the samples for me, and I took them to OSU.

22 Q Okay. I guess what I am curious about is if  
23 this is out of the ordinary, if this type of request  
24 is unusual to receive?

25 A We don't do it a lot. I don't see it a lot,

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1 in my area I'm talking about.

2 Q Okay.

3 A But occasionally we do.

4 Q And when you say your area, do you mean your  
5 geographic area?

6 A I'm talking about -- yes, my geographic area.  
7 I'm talking about the counties that I -- I have  
8 growers in.

9 Q In the second paragraph there, the last line,  
10 do you have a grower whose last name is Hammonds?  
11 It says, please use the OSU protocols for soil and  
12 poultry waste sampling procedures that were  
13 previously sent to you for the Hammond sampling?

14 A I have a grower that is named Hammonds that I  
15 just had done a sampling on, and that's what he was  
16 referring to.

17 Q That's what I assumed, but as Mr. Nance would  
18 tell you, he's probably not surprised I asked that  
19 question.

20 A Right.

21 Q I represent George's. I should have said  
22 that --

23 A Yeah, I knew you did.

24 Q Do you have any George's contract growers in  
25 your area?

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1 A Yes, I do.

2 Q How many? I'm not going to test you on this.

3 A Yeah, don't. I think -- I think I have now  
4 have two.

5 Q Do you happen to know their names, off the top  
6 of your head?

7 A Well, Glen is one of them, Glen Brothers.

8 Q Okay.

9 A And the other one is Martin Baer, Byer.

10 Q Yes, sir. You said you currently have two  
11 George's growers. Has the number of George's  
12 growers in your area decreased, say over --

13 A No.

14 Q -- the last five years?

15 A No, I -- I probably said that wrong. I can't  
16 remember -- I've never had very many.

17 Q Right.

18 A And I think even that Martin Baer has changed  
19 integrators. Maybe he hasn't.

20 Q I'd represent to you that I don't know of it  
21 if he has.

22 A Okay. But anyway, I've had some and some that  
23 did, yes, sir.

24 Q But regarding the two that you currently have,  
25 to your knowledge, have either of those folks, on

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1 their farms, caused a discharge of phosphorus into  
2 the waters of Oklahoma?

3 A Not to my knowledge, no, sir.

4 Q Do you know if they've ever caused a runoff of  
5 poultry waste from their property?

6 A Not to my knowledge.

7 Q To your knowledge, have they ever polluted the  
8 waters of the state of Oklahoma?

9 A Not to my knowledge.

10 Q I told you, infantry guys are short and sweet.

11 A There you are. I appreciate that.

12 DIRECT EXAMINATION

13 BY MS. HILL:

14 Q We'll see if we can keep getting shorter as we  
15 go along, Mr. Littlefield. We met earlier today.  
16 I'm Theresa Hill, again, and I represent Cargill  
17 entities, and I just wanted to go back over a few of  
18 the exhibits that we've gotten today. Would you  
19 turn to Exhibit No. 3? You've got it. You were  
20 cc'd on that letter. You were copied on the letter,  
21 at the bottom it shows?

22 A Yes.

23 Q Is that something that you would have kept in  
24 your files at home, an example of a letter?

25 A Probably.

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1 Q Okay. Let's look at the Exhibit 4, which is a  
2 memo. Would you likely have kept copies of these  
3 types of memos in your files at home?

4 A Probably not.

5 Q Okay.

6 A This is not something that I normally -- this  
7 is information, and I keep that and throw it away.

8 Q What about the notes that you make from  
9 complaint investigations before you type those up  
10 and send those to Oklahoma City, do you keep any of  
11 those notes?

12 A The notes?

13 Q Uh-huh.

14 A No, I don't keep any of the notes.

15 Q Do you keep a copy of the typed report that  
16 you send to Oklahoma City?

17 A I do have a copy of the report that I send to  
18 Oklahoma City, yes.

19 Q Okay. And do you do that on a computer?

20 A No. I'm not -- I'm not a computer guy.

21 Q Okay.

22 A I get my daughter to help me on the computer.  
23 She'll put it on there sometimes, and then my wife  
24 types.

25 Q But you keep the hard copy form?

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1 A I keep the hard copy form, and the edges, what  
2 I make notes of when I go out to the farm, I use  
3 that to make my report, and then it goes in the  
4 shredder.

5 Q And is that true of any kinds of notes that  
6 you might take on the farm, do you keep --

7 A Yes, I don't keep anything like that.

8 Q Okay. Let's take a look at one more, Exhibit  
9 15. I'll make you get through this.

10 A 16?

11 Q 15.

12 A 15, oh, okay.

13 Q Right here. (Indicating). At the bottom it  
14 shows that the inspector kept the yellow copy of  
15 that form?

16 A Yeah, I kept --

17 Q And you --

18 A I keep the yellow copy.

19 Q And those are records that you keep at your  
20 house?

21 A Yes, they are.

22 Q Are there any other types of records then that  
23 you keep at your house that we haven't talked about?

24 A Records, it's not -- this is the only thing  
25 that I -- that I keep is a copy of the inspections.

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1 Q We also spoke earlier today about the  
2 education seminars that you've been involved in.

3 A Uh-huh.

4 Q Do you prepare any materials for those that  
5 you have taught?

6 A Usually I handwrite -- handwrite some of those  
7 on a tablet and make notes to myself to be sure and  
8 mention so and so and so and so. I kind of outline,  
9 you know, what I'm going to talk about and --

10 Q Are those things that you keep?

11 A No, I don't keep those.

12 Q You testified earlier that sometimes company  
13 men attend education seminars. Are those limited to  
14 company men involved in company managed or company  
15 owned farms?

16 A Well, the ones that I know of is Simmons, and  
17 Simmons has some company farms, and they have some  
18 people that are designated to do the education  
19 classes, and they attend.

20 Q So when you testified company men attend those  
21 seminars, it would be those associated with the  
22 farms, the company managed farms?

23 A The company managed farms, yes.

24 Q I know that you're an inspector for the  
25 Cargill grower Gary Fisher; is that correct?

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1 A Yes, I am.

2 Q Are there any other Cargill contract growers  
3 that you currently inspect their farms for ODAFF?

4 A Does Butterball come --

5 Q No.

6 A -- anymore? I have a lot of -- I have some --  
7 I -- the ones I have are in Ottawa County, most of  
8 them turkey growers.

9 Q It might be -- the trade name is Honeysuckle  
10 White.

11 A Okay.

12 Q You might see that on a farm.

13 A No.

14 Q No.

15 A No.

16 Q So Gary Fisher is the only one you know of  
17 currently?

18 A Yes.

19 Q How about in the past, are you aware of any  
20 other Cargill growers in the past who you --

21 A No, no, not -- not in my area.

22 Q Okay. Then are you aware then whether Mr.  
23 Fisher follows the rules in his nutrient and his  
24 animal waste management plan?

25 A I'm not aware of any violations that he's

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1 done.

2 Q And as his inspector, you would be aware of  
3 any violations?

4 A I'm not there at the farm all the time, you  
5 know, but according to his records and according to  
6 what I purpose -- personally see out there on his  
7 farm, I don't see a problem.

8 Q Okay. Are you aware of any Cargill growers  
9 who have done anything to cause runoff of poultry  
10 waste into the Illinois River watershed?

11 A I'm not -- I'm not aware of any.

12 Q Are you aware of any Cargill growers who have  
13 done anything to cause a discharge of poultry waste  
14 into the Illinois River watershed?

15 A Not to my knowledge.

16 Q Are you aware of any Cargill growers who have  
17 ever caused contamination of the waters of the state  
18 of Oklahoma?

19 A Not to my knowledge.

20 MS. HILL: Those are all the questions I  
21 have for you, Mr. Littlefield. Thank you.

22 A Thank you.

23 DIRECT EXAMINATION

24 BY MS. THOMPSON:

25 Q Mr. Littlefield, my name is Erin Thompson, and

1 I represent the Tyson defendants in this lawsuit.

2 Other than with respect to a company managed or  
3 company owned farm, poultry integrator companies do  
4 not receive animal waste management plans; correct?

5 A Company owned?

6 Q Other than with respect to company owned farms  
7 or company managed farms?

8 A Oh, no requirement that I know of.

9 Q Okay. Like I said, I represent the Tyson  
10 defendants --

11 A Uh-huh.

12 Q -- which includes Tyson Foods, Tyson Chicken,  
13 Tyson Poultry and Cobb-Vantress, so in the next few  
14 questions I ask you, I'm just going to say Tyson,  
15 but I wanted to make sure that we understand that it  
16 refers to all four. Okay. Are there currently any  
17 poultry growers who are under contract with Tyson  
18 that are in your jurisdiction?

19 A That's in what?

20 Q In your jurisdiction, your area?

21 A Yes, there is.

22 Q And have you always had poultry growers who  
23 are under contract with Tyson in your jurisdiction?

24 A Yes, they have.

25 Q Okay. To your knowledge, has any poultry

1 grower under contract with Tyson ever caused a  
2 discharge of poultry waste?

3 A Not to my knowledge.

4 Q And to your knowledge, has any poultry grower  
5 under contract with Tyson ever done anything to  
6 cause a runoff of poultry waste?

7 A Not to my knowledge, but I want to explain  
8 something. You know, I'm sitting here saying not to  
9 my knowledge, and there could have been a time. To  
10 my knowledge, I don't --

11 Q Okay.

12 A -- but there might have been a time where  
13 there has been a complaint against one that I went  
14 out, I don't remember. So to say never, I don't  
15 know for sure, but to my knowledge, I don't know of  
16 any.

17 Q Right, and that's -- that's all we're asking  
18 is just --

19 A Okay.

20 Q -- to the best of your knowledge. And then to  
21 your knowledge, has any poultry grower that is under  
22 contract with Tyson or has ever been under contract  
23 with Tyson caused contamination of the waters of the  
24 state of Oklahoma?

25 A Not to my knowledge, no.



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1 MS. THOMPSON: Okay. That's all my  
2 questions.

3 A Okay, thank you.

4 MS. THOMPSON: Thank you.

5 MR. NANCE: I think you get the award.

6 A I can tell you guys something, the girls out  
7 did you. That's not usually happens --

8 MR. McDANIEL: It's the burden we labor  
9 under every day, sir.

10 MS. HILL: All right, Janet, let's see you  
11 do it then.

12 CROSS EXAMINATION

13 BY MR. NANCE:

14 Q Mr. Littlefield, I'm Bob Nance, and I  
15 represent the State of Oklahoma in this case.

16 A Yes, sir.

17 Q Let me ask you if you would know personally  
18 the employment status of Gary Bledsoe, who was one  
19 of the people you mentioned with Mr. Elrod's  
20 testimony, do you know if he's an employee or is he  
21 a contract guy like yourself of ODAFF?

22 A I don't know that for sure.

23 Q Okay. There was some discussion with Mr.  
24 Elrod about the number of your growers that had  
25 animal waste management plans, do you remember

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1 talking with him about that?

2 A Yes, I do.

3 Q Do you believe that you have more growers with  
4 those plans because you have the Eucha-Spavinaw  
5 watershed in your area?

6 MR. McDANIEL: Object to the form, leading.

7 MR. NANCE: You can go ahead and answer.

8 A I would say yes, I -- I think that's -- that  
9 might be the reason, I don't know.

10 Q (By Mr. Nance) Okay. Mr. Littlefield, within  
11 ODAFF, do you know what office deals with  
12 catastrophic losses of poultry within ODAFF, is  
13 there -- disease issues, excuse me.

14 A Disease?

15 Q Yes.

16 A Disease issues, I -- I don't know in ODAFF.  
17 I -- the knowledge that I have, that that's turned  
18 over to the State vet.

19 Q Okay. Are you familiar with the Animal  
20 Industry Services Office?

21 A Yes, I am.

22 Q Do they have any role in regard to  
23 catastrophic mortality due to disease?

24 A Well, I don't know for sure, but I would  
25 assume, you know, I'm just -- that they do.

1 Q Okay.

2 MR. NANCE: Nothing further.

3 REDIRECT EXAMINATION

4 BY MR. ELROD:

5 Q Let me ask you about integrator change. Do  
6 you see that very often?

7 A Not real often, no.

8 Q But it occurs?

9 A But it occurs, yes.

10 Q And then by that I mean, to be more specific,  
11 a grower will change from one company to another for  
12 growing chickens?

13 A That's true.

14 Q To your knowledge, do you know of any Simmons  
15 growers in the Illinois River watershed who have  
16 caused poultry discharge into the waters of the  
17 state of Oklahoma?

18 A No, I'd have to say the same thing that I -- I  
19 said to her. I -- I'm sure with as many Simmons  
20 people I have, they've had complaints against them  
21 for that purpose, but I'm not aware of any right  
22 now.

23 Q And to your knowledge, have any Simmons  
24 growers polluted or contaminated the waters of the  
25 state of Oklahoma?

1 A Not to my knowledge.

2 MR. ELROD: That's all I have.

3 MS. HILL: Scott, anybody else?

4 MR. ELROD: Bob?

5 MR. SANDERS: Oh, no, nothing further.

6 Thank you.

7 MR. ELROD: Bob?

8 MR. NANCE: Nothing for me.

9 MR. ELROD: I think we're done, sir. Thank  
10 you very much.

11 THE WITNESS: Thank you.

12 MR. NANCE: You need to say on the record  
13 whether or not you want to read and sign the  
14 transcript that the court reporter will prepare.

15 THE WITNESS: Now, you mean or --

16 MR. NANCE: You need to say while we're  
17 here whether or not you want to review it.

18 MS. STEWART: But not read it today, but --

19 THE WITNESS: Oh. I started to say, I want  
20 to go home.

21 MR. NANCE: It just needs to be on this  
22 transcript.

23 THE WITNESS: Yeah, I'd like to read it.

24 MR. NANCE: Okay. Thank you.

25 VIDEOGRAPHER: This concludes the

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1 deposition of Mr. John Littlefield. We are off the  
2 record. The time is 3:45 p.m.

3 (Whereupon, the deposition was concluded at  
4 3:41 p.m.)  
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1 I, John Littlefield, do hereby certify  
2 that the foregoing deposition was presented to me by  
3 Karla E. Barrow as a true and correct transcript of  
4 the proceedings in the above styled and numbered  
5 cause, and I now sign the same as true and correct.

6 WITNESS my hand this \_\_\_\_\_ day of  
7 \_\_\_\_\_, 2007.

8  
9  
10 \_\_\_\_\_  
11 JOHN LITTLEFIELD  
12  
13

14 SUBSCRIBED AND SWORN TO before me this  
15 \_\_\_\_\_ day of \_\_\_\_\_, 2007.  
16  
17

18 \_\_\_\_\_  
19 Notary Public  
20

21 My Commission Expires:  
22 \_\_\_\_\_  
23  
24  
25

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C E R T I F I C A T E

STATE OF OKLAHOMA           )  
                                       ) ss.

COUNTY OF TULSA )

I, Karla E. Barrow, Certified Shorthand Reporter in and of the State of Oklahoma, do hereby certify that on the 2nd day of August, 2007, in the City of Tulsa, County of Tulsa, State of Oklahoma, the above witness, John Littlefield, was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the case aforesaid, and that the deposition by him was reduced to writing by me by means of stenograph, and afterwards transcribed by computer-aided transcription, and is fully and accurately set forth in the preceding pages.

I do further certify that I am not related to nor attorney of any of the said parties nor otherwise interested in the event of said action.

WITNESS MY HAND this                    day of August,  
2007.

KARLA E. BARROW, CSR  
CSR No. 00113

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CORRECTIONS TO THE DEPOSITION OF

JOHN LITTLEFIELD

4:05-CV-00329-TCK-SAJ

PAGE AND LINE NUMBER

CORRECTION

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